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No. 91-2038

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1991

JAMES ARTHUR "ART" POPE, *et al.*,
Appellants,

v.

DANIEL T. BLUE, JR., *et al.*,
Appellees.

Appeal from the United States District Court for the Western District of North Carolina, Charlotte Division

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JURISDICTIONAL STATEMENT

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QUESTIONS PRESENTED

Did the district court err in relying on *Badham* v. *Eu* and *Davis* v. *Bandemer* to dismiss, without trial, appellants' complaint, when appellants' principal claim was not one of unconstitutional partisan gerrymandering but, rather, that North Carolina's congressional redistricting is an irrational legislative act unjustified by any legitimate state policy?

Are standards of contiguity and compactness elements of practicable equality in redistricting whose arbitrary disregard precludes "fair and effective representation?"

Did the district court err in holding that article I, section 2 can only be the basis of a claim of unequal population among congressional districts?

Do the first amendment's rights of political association and petition provide protection against arbitrary and irrational congressional redistricting?

Did the district court err in finding the privileges or immunities clause to be "redundant" in the context of a challenge to a congressional redistricting plan?

THE PARTIES

Appellants, plaintiffs in the action below, are as follows: James Arthur "Art" Pope, Robin White Drye, Gilbert S. Plyler, Bobby E. Combs, Kenneth D. Miller, Robert N. Phillips, James L. Steiner, Marilynn M. Wright, W.L. Hylton, David W. Brewer, Donald Penn Neal, Jenny J. Jones, Thomas L. Smith, Mary N. Coblentz, Paul Dziezyc, Carson R. Curlee, Carolyn Osian, S. Lee Hall, Pete Harvey, James N. Cohen, Jr., David Whisenant, David C. Harrison, Angela S. Harrison, Charlene Pietak, John Pietak, Susan W. Smith, William I. Ward, Jr., Arnold T. Hensley, Alby S. Eller, Lilian P. McGrath, Graylyn Faulkenberry, Debbie Elmore, James C. Washam, Malcolm Lester, Robert T. Simpson, Benny H. Page, Henry Howard Danieley, Elizabeth Mullins Danieley, Jerry W. Rudd, Katherine M. Rudd, Martha Ann Kraycirik and David Carlton Murray, North Carolina Republican Party, and Jack Hawke, individually and in his official capacity as Chairman of the North Carolina Republican Party.

Appellees, defendants in the action below, are as follows: Daniel T. Blue, Jr., in his official capacity as Speaker of the North Carolina House of Representatives; Henson P. Barnes, in his official capacity as President Pro Tempore of the North Carolina Senate; Rufus L. Edmisten, in his official capacity as Secretary of State of the State of North Carolina; James G. Martin, in his official capacity as Governor of the State of North Carolina; The North Carolina State Board of Elections; M.H. Hood Ellis, in his official capacity as Chairman of the North Carolina State Board of Elections; Gregg O. Allen, William A. Marsh, Jr., Ruth Turner, and June K. Youngblood, in their official capacities as members of the North Carolina State Board of Elections.

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IN THE

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Appellants,

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Appellees.

Appeal from the United States District Court for the Western District of North Carolina, Charlotte Division

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JURISDICTIONAL STATEMENT

In this congressional redistricting case, appellants appeal from the final judgment and divided opinions of the United States District Court for the Western District of North Carolina, Charlotte Division, sitting as a three-judge court, which dismissed appellants' complaint for failure to state a claim. Appellants alleged that North Carolina's congressional redistricting scheme, which defies all concepts of contiguity and compactness, is irrational and defies common sense. They further alleged that arbitrary partisan and jurisdictional bias fueled by a desire for incumbency protection are illegitimate justifications for the bizarre and irrational district configurations.

OPINIONS BELOW

The April 16, 1992 order and judgment of the three-judge court has not yet been officially reported, but is set

out in the accompanying Appendix A at 1a. Judge Potter's dissenting opinion was appended to the Order and Judgment, and is set out at 16a. Judge Potter's order granting appellants' motion for a temporary restraining order is set out as Appendix B.

JURISDICTION

Appellants' complaint below sought preliminary and permanent injunctive relief against the enforcement of North Carolina's congressional redistricting statute, pursuant to 28 U.S.C. §§ 1343(3) and (4), 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 2201 and 2202. A three-judge court was convened pursuant to 28 U.S.C. § 2284(a). The order and judgment of the three-judge court, filed on April 16, 1992 granted a motion to dismiss the complaint with prejudice and denied appellants any relief. A timely notice of appeal was filed on April 21, 1992. Jurisdiction of this appeal is conferred on this Court by 28 U.S.C. § 1253.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

This case arises under: (a) section 1 of the fourteenth amendment to the Constitution of the United States, which provides, in pertinent part:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws;

(b) article I, section 2 of the Constitution of the United States, which provides, in pertinent part: "The House of Representatives shall be composed of Members chosen every second Year by the people of the several States . . .; and (c) the first amendment to the Constitution of the United States, which states, in pertinent part: "Congress shall make no law . . . abridging the freedom of speech,

or of the press, or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The text of Chapter 7 (1991) (Extra Session) (hereinafter "Chapter 7"), the challenged congressional redistricting statute involved, amends North Carolina Elections Code Chapter 163, article 17. Copies of the legislation and maps reflecting the congressional districts embodied therein and appended to the complaint are appended hereto as Appendix D.

STATEMENT OF THE CASE

This appeal follows the grant by a divided court below of the appellees' motion to dismiss with prejudice the appellants' complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted. The allegations of the complaint, which are presumed to be true in determining the merits of a motion to dismiss,[1] were set out, in part, as follows:

According to the 1990 federal decennial census, the population of the State of North Carolina is 6,628,637 persons, an increase of 746,871 persons since the 1980 decennial census. This increase in population entitled the State of North Carolina to an additional member in the United States House of Representatives, increasing the size of the state's congressional delegation from 11 to 12 members, pursuant to 2 U.S.C. § 2. Complaint paras. 59-61; App. D at 39a.

Because of the increases in the sizes of the state's population and congressional delegation, the North Carolina General Assembly was required to redistrict the state's congressional districts, subject to the requirements of the Constitution of the United States, 2 U.S.C. § 2, and the

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[1] *Gomillion* v. *Lightfoot*, 364 U.S. 339, 341 (1960); *Conley* v. *Gibson*, 355 U.S. 41 (1957); 2A *Moore's Federal Practice*, para. 12.07 [2.-5] (1986 ed.).

Voting Rights Act of 1965, as amended. Complaint, paras. 59-66; App. D at 39a-40a.

Legislation designed to redistrict the State of North Carolina's congressional districts was originally passed by the General Assembly as Chapter 601 of the North Carolina Session Laws of 1991 on July 9, 1991. The proposed congressional redistricting plan contained one majority-black congressional district drawn in the northeast region of the state. The district was unusually contorted in shape in order to protect white Democratic incumbent Congressmen at the expense of minority and Republican voters. Complaint, para. 64; App. D at 40a.

Because significant portions of the State of North Carolina are subject to the preclearance procedures of section 5 of the Voting Rights Act of 1965, as amended, this legislation was unenforceable unless the Attorney General of the United States failed to object to the legislation within the statutory timeframe. Following its enactment, Chapter 601 was submitted to the United States Department of Justice for preclearance. On December 18, 1991 the Department of Justice objected to the proposed congressional redistricting, noting that the state had not demonstrated that the failure to create a second majority-minority district in the southeastern portion of the state did not impermissibly submerge minority voting strength.[2] The Department of Justice also noted that the unusually convoluted shape of the single majority-minority district was not necessary to create a majority-minority district. Complaint, para. 63-67; App. D at 40a, 54a, 60a.

Exhibits filed with the complaint show that in late December, 1991 and early January, 1992 an aide to the Honorable Charles Rose, John Merritt, met with staff of the North Carolina General Assembly and Democratic members of the General Assembly and discussed potential redistricting plans prepared by Mr. Merritt or under his

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[2] The creation of such a district would jeopardize the reelection chances of The Honorable Charles Rose, the Democratic incumbent from the seventh congressional district.

direction. App. E at 153a-179a. In a declaration filed by plaintiff Arthur Pope, Mr. Pope stated that the plans had been prepared after Mr. Merritt had received instructions from incumbent Democratic congressmen to draw a plan that would "get the Republicans." The first plan prepared by Mr. Merritt or under his direction would have placed Republican incumbent Congressmen Howard Coble and Cass Ballenger in the same district. App. E at 148a.

According to exhibits filed with the complaint, Mr. Merritt circulated a second plan in late December of 1991 that would result in the election of nine Democratic and three Republican congressmen. Wright Affidavit, App. D at 153a. In the period of expedited discovery, appellants found that this plan was prepared, at Mr. Merritt's request, not by the North Carolina General Assembly, but by the National Committee for an Effective Congress ("NCEC"), a Washington-based organization dedicated to helping elect Democratic congressmen. A copy of the plan, lodged below, appears to show that the NCEC's computer had the capacity to analyze the manner in which voters in proposed congressional districts had voted in past congressional elections, a feature absent from the database of the General Assembly's computer.

The materials filed with and in support of the complaint also show that one of the plans originally circulated by Mr. Merritt was ultimately adopted, in all practicable respects, by the North Carolina General Assembly, in special session, as Chapter 7. Complaint para. 77; App. E at 42a-43a. On January 24, 1992 Chapter 7 was passed, on a party-line vote by overwhelming Democratic majorities in both houses of the legislature, with only one day of deliberation. Other more reasonable and compact alternatives offered by either Republicans or non-partisan interested persons or groups were rejected by the majority in the General Assembly. The enacted plan was submitted to the Department of Justice on January 28, 1992. On February 6, 1992 the Department of Justice failed to object to Chapter 7. Complaint, para. 68, 77; App. D at 40a-43a.[3]

[3] Section 5 of the Voting Rights Act of 1965, as amended, expressly

On February 28, 1992 appellants filed a complaint and motion for temporary restraining order and preliminary and permanent injunction, challenging the constitutionality of the statewide redistricting of North Carolina's congressional districts, with particular emphasis on the irrational nature of those districts. Appellants sought declaratory and injunctive relief, including a temporary restraining order and/or a preliminary injunction extending the deadline for filing notices of candidacy for election to the United States House of Representatives, until there had been a further redistricting of congressional districts which complied with the Constitution and laws of the United States.[4]

Appellants alleged that the North Carolina General Assembly's motivation in enacting Chapter 7 was to create two districts in which black voters could elect candidates of their choice without risking the reelection chances of white incumbent Democratic Congressmen. A secondary purpose was to further dilute the influence of Republican voters statewide by packing them into the sixth and tenth congressional districts, and gerrymandering them from the eleventh district, thereby jeopardizing the reelection chances of the Republican incumbent. Complaint para. 76; App. D at 42a.

Both the complaint and supporting affidavits filed with the complaint demonstrated that the purported goal of compliance with the Voting Rights Act was a mere pretext, and that the true purpose of the plan was to protect incumbent white Democratic Congressmen.[5] Alternative

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provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin enforcement of Chapter 7, a point noted in the Department's February 6, 1992 letter. Complaint, paras. 68-69; App. D at 40a-41a, 147a.

[4] Appellants submitted literally volumes of exhibits and affidavits below in connection with their complaint and the motion to dismiss. Selected excerpts of the exhibits to the complaint are found at App. D; selected excerpts of the exhibits to the memorandum are found at App. E.

[5] Such a pretextual justification was found lacking by this Court in *Karcher* v. *Daggett*, 462 U.S. 725, 742-43 (1983).

district configurations that better protected the rights of the citizens of North Carolina were available to the General Assembly and were either given no consideration or were rejected. The plan adopted by the General Assembly ignored the recommendation of the Department of Justice to create a minority district in the southeastern portion of North Carolina, since any such district would have jeopardized the reelection chances of the Honorable Charles Rose, the Democratic incumbent in the seventh congressional district. Complaint para. 77; App. D at 42a-43a.

The contorted shapes embodied in Chapter 7 districts deviate substantially from objective criteria and effectively work to dilute appellants' voting strength. The districts substantially diverge from reasonable standards of compactness and arbitrarily ignore communities of interest. The boundaries of many of the districts twist and wind their way across the map of the state in an arbitrary, and irrational manner. See App. D at 133a-145a and App. F at 207a-222a.[6]

These contorted districts are the rule, not the exception in the congressional redistricting plan embodied in Chapter 7. Perhaps the most grossly contorted district in the nation is the twelfth congressional district,[7] which serves as the linchpin to the General Assembly's redistricting plan. The twelfth district is one of two districts in which the appellees maintain that black voters would be able to elect the candidate of their choice since blacks comprise a 56 percent

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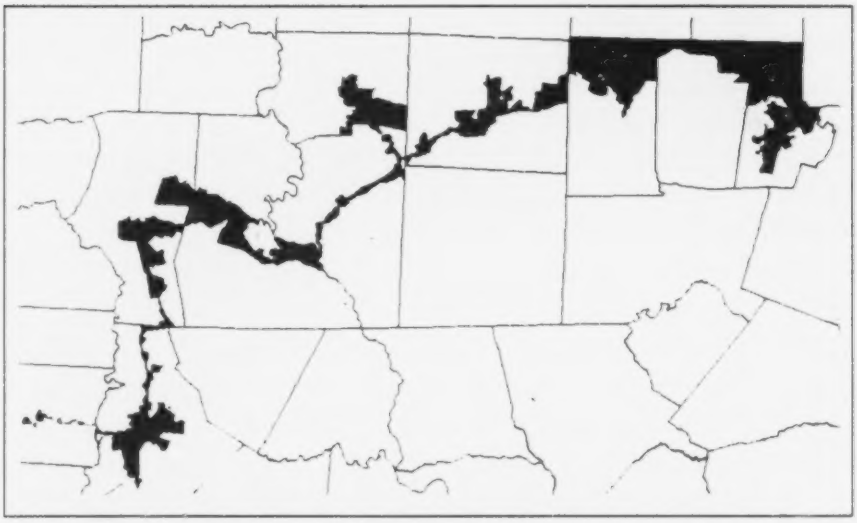
[6] The maps contained in Appendix F were produced using the United States Census Bureau's PL94-171 and TIGER files for North Carolina, plus a computerized "plan" file on a magnetic tape received from the North Carolina General Assembly Legislative Services Office. The plan was compiled by the State of North Carolina and is a computerized list of the individual census blocks assigned to each of the new districts. In other words, these maps are graphic versions of the census geography listed in Chapter 7, App. D at 62a.

[7] *See,* Affidavit of Thomas Hofeller, App. E at 192a.

majority of the population in that district. Complaint para. 78; App. D at 43a.[8]



North Carolina's Twelfth Congressional District

The twelfth district is approximately 160 miles long and winds through ten counties. For much of its length, the district is no wider than the Interstate Highway 85 ("I-85") corridor. In Davidson County, northbound drivers on I-85 would be in the twelfth congressional district, while southbound drivers would be in the sixth district. In neighboring Guilford County, the districts would "change lanes" with southbound drivers finding themselves in the Twelfth District and northbound drivers in the Sixth District. Complaint para 79; App. D at 43a-44a. In Gaston County, the twelfth district is contiguous only because it runs along a railroad right-of-way created between a railroad and a highway. *Id.*

In Iredell County, the twelfth district intersects at a single "point" with two other districts, at which point the twelfth district "crosses over" the other two districts and is "contiguous" at best by a "point" it shares in common with the two other districts. The twelfth district, like others in Chapter 7, completely diverges from any rational

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[8] The other district is district one, *see* App. F at 208a and 220a.

standard of contiguity, compactness or communities of interest. Complaint para. 79; App. D at 138a, 141a, 143a, 145a, 207a, 213a, 219a, 221a.

The manner in which the General Assembly has drawn Chapter 7 also had the result of splitting numerous communities and precincts into different congressional districts. Complaint para 80; App. D at 44a.

On February 28, 1992 Judge Robert Potter, United States District Judge for the Western District of North Carolina, granted appellants' motion for a temporary restraining order, ordering that defendant North Carolina State Board of Elections extend the deadline for filing notice of candidacy for election to the United States House of Representatives from March 2, 1992 until 4:23 p.m. on March 10, 1992. App. B. In the same order, the court ordered that appellants and respondents should appear before it on March 9, 1992 to determine whether good cause existed for the court to issue a permanent injunction.

On March 2, 1992 appellants moved the court for an order requiring expedited discovery from appellees, which was granted by Judge Potter on March 3, 1992. In a separate order filed on March 3, 1992, the court also required appellants to serve respondents with a memorandum of points and authorities supporting their motion for preliminary injunction along with any supporting affidavits on March 5, 1992, with copies to be filed with the court on March 6, 1992. Respondents were ordered to serve a memorandum in support of their motion to dismiss and any supporting affidavits by 9:00 a.m. on March 9, 1992. On the same day, appellees moved to dismiss appellants' complaint for failure to state a claim upon which relief can be granted.

In the course of the limited expedited discovery permitted by the court's order schedule, appellants developed a considerable body of information demonstrating the irrational nature of the plan, which they tendered in support of their motion for preliminary injunction.

On March 6, 1992 Judge Sam J. Ervin III, Chief Judge of the United States Court of Appeals for the Fourth Circuit, appointed himself and Judge Earl Britt, of the United States District Court for the Eastern District of North Carolina, to serve with Judge Robert Potter as members of the three-judge district court in this case, pursuant to 28 U.S.C. § 2284.

On March 9, 1992 a hearing was held in Charlotte, North Carolina before the three-judge court, Judge Ervin presiding.[9] Despite the fact that appellants' motion for a preliminary injunction had been both filed and scheduled for a hearing prior to respondents' filing of its motion to dismiss, the court ruled that it would consider respondents' motion first, and that the appellants' complaint failed to state a claim upon which relief could be granted. No argument was allowed on plaintiffs' motion for a preliminary injunction.

Following the court's ruling granting appellees' motion to dismiss for failure to state a claim, appellants moved in open court, pursuant to Rule 62, Fed.R.Civ.P., that the court stay its order dismissing appellants' complaint and continue its previous temporary retraining order prohibiting the State Board of Elections from closing the filing period for candidates to the United States House of Representatives from North Carolina.

Appellants' motion was immediately denied in open court by the court. The next day, appellants filed an emergency application for injunction and stay pending appeal,[10] which was denied on March 11, 1992 by the Chief Justice.

On April 16, 1992 the court filed its order and judgment in this case. In an opinion by Judge Ervin, which was

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[9] At the hearing on appellee's motion to dismiss, appellants introduced large-scale, detailed maps, produced by appellants on the General Assembly's redistricting computer system. Because of their size, these maps have been lodged with the Clerk of this Court. An additional detailed map of congressional district 12, produced in the manner set out in n.7, *supra*, has also been lodged with the Clerk.

[10] No. A-677.

joined by Judge Britt, the court granted the appellees' motion to dismiss for failure to state a claim, relying primarily up on this Court's opinion in *Davis* v. *Bandemer*, 478 U.S. 109 (1986), and the interpretation of that opinion by three-judge panel in *Badham* v. *Eu*, 694 F. Supp. 664 (N.D. Cal. 1988), *aff'd mem.*, 488 U.S. 1024 (1989). App. A at 7a. The district court erroneously concluded that the "gravamen of the plaintiffs' case is that the plan adopted by the Democratic legislature will result in disproportionately high representation for the Democratic Party in the state's congressional delegation." App. A at 9a. On the contrary, the principal thrust of appellants' complaint is that Chapter 7 is an irrational legislative act unsupported by any legitimate or nonarbitrary state justification.[11] Appellants' allegations about partisan intent and effect were made principally to underscore the illegitimate motives behind an irrational redistricting scheme.

Nonetheless, the district court concluded that while there existed evidence of "the discriminatory intent of the designers of the plan . . . the plaintiffs must show that they have been or will be consistently degraded in their participation in the entire political process, not just the redistricting process." App. A at 11a. Under this analysis, the court determined that members of the Republican Party could *never* make such a showing, *id.*, thereby rendering this Court's decision in *Bandemer* a nullity.

The district court completely disregarded appellants' actual claim that a rationality test under the fourteenth amendment is the appropriate standard to evaluate the constitutionality of North Carolina's congressional redistricting. The court chose to view appellants' allegations regarding partisan intent and effect only in light of *Badham*, and not in their larger context as illegitimate justifications for irrational state legislation.

The district court also dismissed appellants' claim that chapter 7 violates the first amendment by arbitrarily and

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[11] *See, e.g.*, Appellants' "First Cause of Action." App. D. at 41a.

invidiously discriminating against communities of interest solely because of geographic location and partisan affiliation, and by chilling public debate on issues of public importance. Complaint at 101; App. D at 48a. The district court found *Badham* to be dispositive of this claim. App. A at 12a-13a. The court similarly disposed of appellants' claim under the first amendment's petition clause, concluding that appellants had "completely failed to show that the Plan has any effect on their right of petition." App. A at 13a-14a.

Finally, the district court rejected appellants' claim under the privileges or immunities clause of the fourteenth amendment, noting: "While the history and language of the clause indicate that Congress intended it to have broad application, 'courts rarely rely upon [it] to protect the privileges of citizens.' " App. A at 14a-15a. Citing Laurence Tribe, AMERICAN CONSTITUTIONAL LAW 548 (1988), the court concluded that " 'the privileges or immunities clause appears technically redundant,' " and determined that: "We see no legal basis for breathing new life into the clause." App. A at 13a-14a.

The court noted that: "It is tempting to agree with the contention at oral argument that, just by showing the court a map of North Carolina's new congressional districts, the plaintiffs must have stated some cause of action. However, prior Supreme Court decisions have wisely counseled us to resist that temptation. Until we hear from a higher authority, we order that defendants' motion to dismiss the plaintiffs' complaint be granted with prejudice. . . ." App. A at 15a. Appellants respectfully submit that this Court should accept the district court's implicit invitation and note probable jurisdiction.

In a brief dissent, Judge Potter noted his belief that "the complaint filed by the Plaintiffs contains sufficient allegations of both discriminatory intent and effect to withstand the Defendants' Rule 12(b)(6) motion to dismiss." App. A at 16a. Judge Potter "would allow the Plaintiffs an opportunity to put on their evidence." *Id.*

THE QUESTIONS PRESENTED ARE SUBSTANTIAL

I. INTRODUCTION

Appellants maintain that the egregiously gerrymandered districts embodied in Chapter 7 are symptomatic of an emerging constitutional crisis which would be exacerbated by the Court's failure to note probable jurisdiction. The voters of North Carolina, like a growing number of voters nationwide, are expressing their frustration at their continued inability to effect change through their elected officials. This frustration arises from a perception that the voters no longer control their government. The voters of North Carolina no longer can select their incumbent congressmen; it is the incumbent congressmen who have chosen the voters for their districts. Thus, when the voters, frustrated by a lack of responsiveness to their political objectives, seek to change their elected congressmen, that change is denied, solely on the basis of district configuration. In effect, irrational redistricting has become the tool to frustrate not just political and racial minorities, *but the will of the majority as well.*

II. THE COURT BELOW ERRED IN REFUSING TO CONSIDER OR ADDRESS APPELLANTS' ALLEGATIONS THAT NORTH CAROLINA'S CONGRESSIONAL DISTRICTING IS ARBITRARY AND COMPLETELY LACKING IN RATIONALITY AND SHOULD BE FOUND INVALID ON THAT BASIS ALONE

A. The Erroneous Application of the Analysis Made in *Badham* v. *Eu* to the Allegations in Appellants' Complaint Was Based on a Misreading of the Allegations and Claims in the Complaint

By focusing almost exclusively on an analysis of partisan gerrymandering constructed by the three-judge court in *Badham* v. *Eu*, 694 F. Supp. 664 (N.D. Cal. 1988), *aff'd mem.*, 488 U.S. 1024 (1989), the court below ignored or *missed the point* of appellants' complaint and arguments. While appellants believe that their complaint could survive an analysis under *Davis* v. *Bandemer*, 478 U.S. 109 (1986),

their complaint made no free-standing claim of unconstitutional partisan gerrymandering. Rather, it alleged that Chapter 7 violated appellants' rights to fair and effective representation under the fourteenth amendment without regard to race or political affiliation. Complaint para. 73; App. D 41a.

Appellants maintain that the relevant inquiry in redistricting cases is whether "the vote of any citizen is approximately equal in weight to that of any other citizen," *Reynolds* v. *Sims*, 377 U.S. 533, 579 (1964), the aim being to provide "fair and effective representation for all citizens." *Id.* at 565-566; *see also Board of Estimate of City of New York* v. *Morris*, 489 U.S. 688, 693 (1989). This Court held in *Reynolds* that:

> Since the achieving of fair and effective representation for all citizens is concededly the basic aim of legislative apportionment, we conclude that the Equal Protection Clause guarantees the opportunity for equal participation by all voters in the election of State legislators. *Diluting the weight of votes because of place of residence impairs basic constitutional rights under the Fourteenth Amendment* just as much as invidious discriminations based upon factors such as race . . .

See Reynolds, 377 U.S. at 565-6 (emphasis added); *see also Davis* v. *Bandemer*, 478 U.S. 109, at 123-4 (1986).

In *Reynolds*, this Court further explained, "that the basic principle of representative government remains, and must remain, unchanged—*the weight of a citizen's vote cannot be made to depend on where he lives.*" *Reynolds*, 377 U.S. at 567 (emphasis added). This is the constitutional infirmity of which appellants complain.

While most cases alleging malapportionment of congressional districts involve claims of unequal population among districts or dilution of minority voting rights under the Voting Rights Act of 1965, as amended, the principles applied by the courts in those cases should be applied where, as here, a plan may be numerically precise but

cartographically outrageous. For example, in *Karcher* v. *Daggett*, 462 U.S. 725 (1983), this Court noted that "any number of consistently applied legislative policies might justify some variance [from equal population] . . .," as long as the state's purported objectives "are nondiscriminatory." *Id.* at 740 (citing *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960)). The Court held, however, that a state must "show with some specificity that a particular objective required the specific deviations in its plan, rather than relying on general assertions." *Id.* 462 U.S. at 741. The Court reiterated that any judicial determination of the justifications proffered by the state "requires case-by-case attention." *Id.* In any event, any proffered justification must be on the basis of "some legitimate, consistently applied policy." *Id.* (citing *Kirkpatrick* v. *Preisler*, 394 U.S. 526, 534-535 (1969)).

Appellants alleged and maintain that the overriding considerations of partisan affiliation and incumbency protection are not the sort of legitimate state policy that would justify the contorted district configurations embodied in Chapter 7. This was the point of appellants' allegations and arguments about partisan and political intent and effect. The court below clearly and erroneously failed to consider that allegations of illegitimate partisan animus were relevant in the context of appellants' broader fourteenth amendment challenge.

B. The Appropriate Standard to Measure North Carolina's Congressional Redistricting is a Rationality Test

The court below erroneously focused singularly on a partisan "effects" analysis, blinding it to appellants' actual claims in their complaint. When, in *Baker* v. *Carr*, 369 U.S. 186 (1962), this Court confirmed that challenges to allegedly unconstitutional redistricting schemes were justiciable, it cautioned that "[m]uch confusion results from the capacity of the 'political question' label to obscure the need for case-by-case inquiry." *Id.* at 210-11.

In its review of *Reynolds*, this Court found that the challenged plan was *"completely lacking in rationality, and could be found invalid on that basis alone."* *Reynolds*, 377 U.S. at 568 (emphasis added). Thus, *Reynolds* explicitly supported the notion adopted by numerous district courts that a given redistricting scheme can be found unconstitutional as lacking in rationality. This rationality standard can be, and has been, applied in a manageable manner by the federal district courts.[12]

The methods of analysis set out in *Baker*, *Karcher*, *Bandemer*, and other redistricting precedents of this Court demonstrate that it is appropriate for a district court to make a particularized analysis of the facts surrounding the rationality of the challenged plan. Such an analysis can only lead to the conclusion that the protection of the right to vote and the constitutional imperative of fair and effective representation impose a "high standard of justice and common sense which the Founders set for us." *Wesberry* v. *Sanders*, 376 U.S. 1, 18 (1964).

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[12] In the two years following the decision in *Baker*, lower federal courts demonstrated that they are fully equipped to develop manageable standards for reviewing congressional redistricting cases by applying a rationality test: *Thigpen* v. *Meyers*, 211 F. Supp. 826 (W.D. Wash. 1962), *aff'd sub nom. Meyers* v. *Thigpen*, 378 U.S. 554 (1964); *Clark* v. *Carter*, 218 F. Supp. 448 (E.D. Ky. 1963); and numerous legislative cases. *See, e.g., Toombs* v. *Fortson*, 205 F. Supp. 248 (N.D. Ga. 1962), *vacated in part sub nom. Fortson* v. *Toombs*, 379 U.S. 621, *amended*, 380 U.S. 929 (1965); *Daniel* v. *Davis*, 220 F. Supp. 601 (E.D. La. 1963); *Davis* v. *Synhorst*, 217 F. Supp. 492 (S.D. Iowa 1963), *aff'd sub nom. Hill* v. *Davis*, 378 U.S. 565 (1964); *Moss* v. *Burkhardt*, 207 F. Supp. 885 (W.D. Okla. 1962), *appeal dismissed sub nom. Pria* v. *Moss*, 374 U.S. 103 (1963); *Moss* v. *Burkhardt*, 220 F. Supp. 149 (D. Okla. 1963), *aff'd sub nom. Williams* v. *Moss*, 378 U.S. 558 (1963).

III. NORTH CAROLINA'S CONGRESSIONAL REDISTRICTING PLAN IS "A CRAZY QUILT WITHOUT RATIONAL BASIS"

A. The North Carolina General Assembly Arbitrarily and Capriciously Ignored Fundamental Notions of Contiguity In Constructing the Challenged Congressional Districts

This Court characterized the constitutional claim of the plaintiffs in *Baker* v. *Carr* as being "that the [challenged] statute constitutes arbitrary and capricious state action, offensive to the Fourteenth Amendment in its irrational disregard of [any standard of apportionment]." *Baker,* 369 U.S. at 207. As Justice Clark put it, the plan was "a crazy quilt without rational basis." *Id.* at 254 (Clark, J., concurring). As alleged in appellants' complaint and supporting affidavits, it is just such arbitrary and capricious action that is challenged here.[13]

The facts alleged about Chapter 7 indicate that several districts are lacking in contiguity. *See, e.g.,* Complaint, para. 79; App. D at 43a-44a.[14] Appellants maintain that, at the very least, a standard of contiguity is a *sine qua non* for fair and effective representation. In most states, and in most redistricting plans, contiguity is assumed, and a plan that does not comport with this fundamental standard can serve no rational or legitimate justification, particularly in light of the advances in computer technology that have occurred in recent years. The Court explicitly

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[13] One definition of contiguity is found in Polsby & Popper, *The Third Criterion: Compactness as a Procedural Safeguard Against Partisan Gerrymandering,* 9 YALE L. & POL. REV. 301, 330 n.139 (1991) at 330 n. 139: "The technical definition of contiguity is satisfied when one can travel from one part of a district to any other without having to leave the district." Assuming that there is contiguity by "point" in Chapter 7—although a visual analysis suggests that this is by no means certain—each such point would be *in at least two districts at the same time.*

[14] During the course of the short discovery period below, appellants discovered a number of examples of noncontiguity in Chapter 7. *See, e.g.,* App. F at 221a and 222a.

recognized this in *Karcher* when it noted that "the rapid advances in computer technology and education during the last two decades make it relatively simple to draw *contiguous* districts of equal population and at the same time to further whatever secondary goals the state has." *Karcher,* 462 U.S. at 733 (emphasis added). Here, however, the General Assembly has perverted the concept of contiguity and used computer technology to draw *noncontiguous* maps.

Since contiguity is normally assumed in redistricting and is generally noncontroversial,[15] the lack of contiguity should signal that something is amiss. Several district courts have recognized the issue and invalidated plans which were, among other things, noncontiguous.[16]

The need for contiguity in congressional districts would seem to be self-evident, because congressmen are required to be elected by single-member districts. 2 U.S.C. § 2. If a two- or three-part noncontiguous district is constitutionally permissible, what would limit the North Carolina General Assembly from constructing, for illegitimate purposes, congressional districts composed of 10, 50 or even 100 noncontiguous pieces of geography? The constitutional—and statutory mandate—for single-member congressional districts would be rendered irrelevant. Our system of representative government cannot countenance such a result.[17]

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[15] B. Grofman, *Criteria for Districting: A Social Science Perspective,* 33 UCLA L. Rev. 77, 84 (1985); R. Niemi, *The Relationship Between Votes and Seats: The Ultimate Question in Political Gerrymandering,* 33 UCLA L. Rev. 185, 187 (1985).

[16] In *Winter* v. *Docking,* 356 F. Supp. 88 (D. Kan. 1973), a three-judge federal district court invalidated a Kansas legislative district plan because it found the plan "was based primarily upon the desire . . . to eliminate the necessity of any incumbent members of the House, particularly majority party members, to seek reelection against one another." *Id.* at 91. In so doing, "many of the newly created districts were lacking in compactness and contiguity." *Id; see also Wendler* v. *Stone,* 350 F. Supp. 838, 843 (S.D. Fla. 1972) (Roettger, J. dissenting).

[17] Two experts have recently commented on the importance of contiguity in this context:

B. Contiguity and Compactness are Aspects of Practicable Equality and Their Disregard by the District Court Precludes Fair and Effective Representation

If contiguity is to be a valid constraint on congressional redistricting, it must be considered in relation to and as dependent on a requirement of *relatively* compact districts. "Whatever contiguity adds to a gerrymander's burdens, noncompactness can take away. Noncompactness may render contiguity irrelevant as a constraint." Polsby & Popper, *supra* at 331. Appellants maintain that, in the context of this case, *contiguity and compactness are aspects of practicable equality*, deserving of judicial review.

The congressional districts embodied in Chapter 7 are unconstitutionally "uncouth," *Gomillion* v. *Lightfoot*, 364 U.S. 339, 340 (1960), and in effect, a "crazy quilt without rational basis." *Baker*, 369 U.S. at 254 (Clark, J., concurring). While appellants resisted stating their case below in terms of compactness *qua* compactness, they do maintain that the bizarrely-shaped districts embodied in the plan warrant further attention, and that such analysis is justified by this Court's jurisprudence.

Appellants acknowledged Justice Stevens' warning in *Karcher* "against *defining* gerrymandering in terms of odd shapes." 462 U.S. at 755 n.15 (Stevens, J., concurring). Appellants urge the Court's agreement, however, that dramatic "departures from compactness are a signal that

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> Despite the courts' inattention, contiguity is not just a gracenote in the score of democracy; it is crucial, both practically and theoretically. Without the restraint of contiguity, equinumerosity is so diminished that its only real value is symbolic. A contiguity requirement exponentially shrinks the number of available districting options, because in constructing one district, the mapmaker necessarily forecloses the possibility of constructing countless others which would intersect the first.

Polsby & Popper, *supra*, n.13 at 330-31.

something may be amiss." *Id.* at 758.[18] Something is indeed amiss in North Carolina, and appellants have been precluded from making their case to remedy this problem.

In *Reynolds* v. *Sims*, 377 U.S. at 568, this Court invalidated the Alabama legislative plan not only because of excessive population deviations, but also because "the existing apportionment . . . presented little more than crazyquilts, completely lacking in rationality, *and could be found invalid on that basis alone.* (Emphasis added.)

Relative compactness is a manageable standard, and courts have frequently used considerations of compactness, contiguity and jurisdictional splits as criteria in the construction and assessment of plans. In *Connor* v. *Finch*, 431 U.S. 407 (1977), this Court noted that as well as minimizing deviations and minority vote dilution, plans drawn by a court, in either a deadlock or remedial situation, should also be contiguous and compact. Numerous federal district courts have followed this suggestion.[19]

While appellants believe this Court can readily recognize the illegimately contorted shapes in Chapter 7, it is not necessary to rely on Justice Stewart's classic definition of obscenity, "I know it when I see it," *Jacobellis* v. *Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring), to meas-

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[18] *See also* R. Dixon, *Democratic Representation: Reapportionment in Law and Politics* 460 (1968); B. Grofman, *supra* note 15; Grofman, *An Expert Witness Perspective on Continuing and Emerging Voting Rights Controversies: From One Person, One Vote to Partisan Gerrymandering*, at 19 (manuscript), ___ STETSON L. REV. ___ (forthcoming).

[19] *See, e.g. De Grandy* v. Wetherell, No. TCA 92-40015-WS (N.D. Fla. May 29, 1992); *Arizonans for Fair Representation* v. *Symington*, No. CIV-92-256-PHX-SMM (D. Ariz. May 5, 1992) (slip opinion at 11); *Cartsens* v. *Lamm*, 543 F. Supp. 68, 87-88 (D. Colo. 1982); *LaComb* v. *Growe*, 541 F. Supp. 145, 148 (D. Minn. 1982); *South Carolina State Conference Of Branches* v. *Riley*, 533 F. Supp. 1178, 1181 (D. S.C. 1982); *Shayer* v. *Kirkpatrick*, 541 F. Supp. 922 (W.D. Mo. 1982); *Potter* v. *Washington County, Florida*, 653 F. Supp. 121 (N.D. Fla. 1986); *East Jefferson Coalition* v. *Jefferson Parish*, 691 F. Supp. 991 (E.D. La. 1988).

ure whether the Chapter 7 districts are compact. Meaningful measures of compactness do exist,[20] and can be applied by the district courts in a manageable manner.

Because of the bizarrely shaped districts in Chapter 7, particularly to the extent that the districts snake across miles of rural countryside, appellants and voters in general, particularly those located in split political subdivisions and precincts, cannot readily identify their appropriate congressional district, congressman or congressional candidates, and a congressman or congressional candidate is unable to define, in common sense terms, based on geographic references, the characteristics of his or her geographic constituency. *See Affidavit of Bernard Grofman.* App. E at 180a. Professor Grofman has defined this problem as a lack of "cognizability."

In addition to the exhibits appended to and in support of their complaint appellants were prepared below to proffer evidence that representatives are less likely to be identifiable to their constituencies when congressional boundaries are totally independent of other existing political boundaries. Appellants would have demonstrated that it is this simple inability of the electorate to identify their elected representatives or determine fellow constituents that has contributed to the unprecedented voter frustration evidenced by the current electorate. Appellants were also prepared to demonstrate that the independence of congressional districts from the rational limitations of jurisdictional boundaries, contiguity or compactness frustrates the

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[20] *See, e.g.,* Hofeller & Grofman, *Comparing the Compactness of California Congressional Districts Under Three Different Plans: 1980, 1982 and 1984, in* (B. Grofman ed., 1990) POLITICAL GERRYMANDERING AND THE COURTS; Niemi, Grofman, Carlucci & Hofeller, *Measuring the Compactness and the Role of a Compactness Standard in a Test for Partisan Gerrymandering,* 52 J. POL. 1155 (1990); *De Grandy* v. *Wetherell,* No. 92-40015-WS (N.D. Fla. May 29, 1992). Obviously, there is no single definition of compactness that can be applied in all cases, since each state's geographic characteristics may preclude one or more applications. However, given the variety of accepted methods of analysis, a district court should be able to determine the most applicable method.

candidate recruitment and campaign support vehicles of political parties, which are generally organized along political subdivision lines.[21]

Appellants would also have offered evidence designed to demonstrate that district configurations have an important effect on public policy, both in terms of fiscal impact on affected jurisdictions and other policy issues.[22]

Most recently, a three-judge panel found that: "Preservation of political subdivisions promotes efficient representation, empowers a constituency's ability to organize productively, and serves as a deterrent to partisan gerrymandering." *Wesch* v. *Hunt,* No. 91-0787, slip op. at 16

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[21] Ironically, many of the arguments raised by appellants were used by the North Carolina General Assembly in responding to criticism to the first plan passed by the General Assembly. The parties below agreed to the inclusion in the record copies of all materials submitted to the Department of Justice in support of the plan and in response to comments on the plan. An October 14, 1991 memorandum from Gerry F. Cohen, Director of Legislative Drafting for the North Carolina General Assembly, to the Department of Justice (excerpted in Plaintiff's Exhibit 24 below), discussed the harm in dividing precincts: "The criteria of not dividing precincts was adopted for several reason. Political campaigns are the process by which candidates are elected. Political parties and candidate organizations are usually organized at the precinct level. [The state] knows of no political organization or candidate committee organized at the block group or block level. . . ." *Id.* at 31. "To the extent that whole precincts are used, residents of the district and persons elected to represent the district are more likely to know who actually lives in the district." *Id.* at 32. "There is no positive correlation between the number of counties in a district and the amount of compliance with Sections 2 and 5. Indeed, the greater number of counties in a district, the less likely there is to be any community of interest, and the more likely a district is to be uncompact and unrepresentable. . . ." *Id.* at 63. "The [proposed] western 'minority' district (12) defies imagination, stretching for 125 miles from Charlotte to Caswell County, never being more than five miles wide, and for considerable stretches appearing . . . to be a mile wide or less. . . . It would be preposterous to say that this district is compact." *Id.* at 66.

[22] *See, e.g.,* Maggiott, *et al., The Impact of Reapportionment on Public Policy: The Case of Florida, 1960-1980* in REAPPORTIONMENT & REPRESENTATION IN FLORIDA: A HISTORICAL COLLECTION, 387 (S. MacManus ed., 1991).

(S.D. Ala. Mar. 9, 1992) (citing *Burton* v. *Hobbie*, 561 F. Supp. 1029, 1035 (M.D. Ala. 1983); *see also Ely* v. *Klahr*, 403 U.S. 108 (1971)). Recognition and protection of communities of interest keeps intact "distinctive units which share common concerns with respect to one or more identifiable features such as geography, demography, ethnicity, culture, socio-economic status or trade." *Carstens* v. *Lamm*, 543 F. Supp. 68, 87-88 (D. Colo. 1982); *see also Arizonans for Fair Representation* v. *Symington*, No. CIV-92-256-PHX-SMM, slip op. at 18 (D. Ariz. May 5, 1992) (court selected one plan over another because "two precincts will be better served in [a neighboring district], where their neighboring precincts are located").

Appellants were precluded by the district court from presenting evidence to support their allegations which would have demonstrated the "inescapable human effect of this essay in geometry and geography." *Gomillion*, 324 U.S. at 347.

C. The District Court Erred in Failing to Consider That The Extensive Number of Split Political Subdivisions, Communities and Precincts Resulting from Chapter 7's Lack of Contiguity and Compactness Was Unnecessary, Arbitrary and Irrational

Appellants' complaint alleged numerous instances of unnecessary, arbitrary and irrational splits of counties, cities, towns, townships and other political units than would be necessary to create two majority-minority districts in North Carolina.

In support of their motion to dismiss, respondents relied, in part, upon the majority opinion in *Anne Arundel County Republican Central Committee* v. *The State Advisory Board of Election Laws*, 781 F. Supp. 394 (D. Md. 1991), *aff'd mem.* 60 U.S.L.W. 3798 (May 26, 1992). The *Anne Arundel* plaintiffs challenged Maryland's congressional redistricting plan because it had the effect of splitting their county into four separate districts. After a hearing *on the merits* and submission of exhibits, the court determined that the plaintiffs had not proved a constitutional violation. The

court made clear, however, that *some* county would have had to be split given the demographics involved, and that the selection of Anne Arundel County was the result of a bipartisan agreement. The court also noted that its decision should not be read to endorse "a district line drawn to snake through the alleys and cul-de-sacs of 23 different counties in order to match two white people for each black, or two democrats for each republican . . ." *Id.* at 400. Appellants maintain that the bizarre districts embodied in Chapter 7 are exactly the type of irrational scheme that would be found invalid by both the *Anne Arundel* majority and dissent.

IV. ARTICLE I, SECTION 2 SHOULD NOT BE LIMITED TO POPULATION-BASED CLAIMS

Appellants' claim under article I, section 2 of the Constitution of the United States was also dismissed without trial. Appellants maintain that each aspect of constitutional infirmity under the fourteenth amendment is also cognizable under article I, section 2 when a congressional redistricting is at issue. *Cf. Badham* v. *Eu*, 694 F. Supp. 664, 668 (N.D. Cal. 1988), *aff'd mem.*, 488 U.S. 1024 (1989).

While congressional claims under article I, section 2 have generally been considered in terms of population equality, appellants maintain that the irrationality embodied in Chapter 7 violates practicable equality, and should also be reviewed under this constitutional provision. Furthermore, appellants believe that congressional redistricting plans are subject to an even higher level of scrutiny in this context than legislative plans reviewed under the equal protection clause alone. *Cf. Karcher* v. *Daggett*, 462 U.S. 725 (1983).[23]

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[23] *Cf.* Circuit Judge Niemeyer's detailing of the problems—and irrational results—that follow from limiting analysis under article I, section 2 to equality of population. *Anne Arrundel County, supra* at 401.

V. THE DISTRICT COURT ERRED IN REJECTING APPELLANTS' CLAIMS UNDER THE FIRST AMENDMENT'S RIGHTS OF POLITICAL ASSOCIATION AND PETITION

The district court concluded that "because there is no 'device that directly inhibits participation in the political process,' appellants' freedom of association claim boils down to the argument that they are entitled to political success, [*Washington* v. *Finlay*, 664 F. 2d 913 (4th Cir. 1981)]," thereby dooming the claim. Appellants maintain that had they been allowed to prove their case, they would have demonstrated that bizarre district configurations have such a chilling effect on voters' rights as to "inhibit participation in the political process." *Cf.* App. A at 13a. The argument is not about political success, but of the practicable ability of voters of targeted political parties or jurisdictions to effectively band together to elect candidates who can translate their political beliefs into policy decisions.

The district court also dismissed appellants claim under the first amendment's petition clause.[24] The court determined that this claim "merely restates the plaintiffs' freedom of association argument." App. A at 14a. Appellants respectfully disagree, and maintain that the right of petition is not subsumed by the rest of the first amendment. Petitioning the government "involves a bundle of related first amendment rights." *Brown* v. *Clines*, 444 U.S. 348, 362-63 (1979) (Brennan, J., dissenting). *See also United Mine Workers of America* v. *Illinois State Bar Association*, 389 U.S. 217, 222 (1967). While this Court has treated these various first amendment rights as overlapping, this reasoning would suggest that one aspect of first amendment expression rights is not entitled to elevation over another, *McDonald* v. *Smith*, 472 U.S. 479, 490 (1985)

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[24] It has long been established that each of the first amendment's rights, including the right to petition, are protected by the fourteenth amendment from invasion by the states. *See, e.g., Edwards* v. *South Carolina*, 372 U.S. 229, 235 (1963).

(Brennan, J., concurring), not that one merely subsumes another.

Petitioning, historically and textually, is a right separable from speech, press and association, and "the interests served by petitioning go to the very heart of the principle of popular sovereignty." Smith, *"Shall Make No Law Abridging . . .": An Analysis of the Neglected, But Nearly Absolute, Right of Petition*, 54 CIN. L. REV. 1153, 1196 (1986). Plaintiffs clearly alleged, and have a right to prove and have remedied, the irrational abridgment of their petition rights. *See* Hodgkiss, *Petitioning and the Empowerment Theory of Practice*, 96 YALE L. J. 569 (1987).

VI. THE DISTRICT COURT ERRED IN FINDING THE PRIVILEGES OR IMMUNITIES CLAUSE TO BE "REDUNDANT"

In rejecting appellants' claim under the fourteenth amendments' privileges or immunities clause, the district court noted that "courts rarely rely upon [it]" and that it "appears technically redundant," (citing Lawrence H. Tribe, AMERICAN CONSTITUTIONAL LAW 548 (1988)). Ironically, a claim under this provision was raised, although not reached, by this Court in *Wesberry* v. *Sanders*, 376 U.S. 1 (1968), which found a sufficient basis to invalidate the plan under article I, section 2 of the Constitution. *Id.*, 211 U.S. at 14a-15a.

Appellants have a constitutional right to freely participate in the selection of their national representatives. *United States* v. *Classic*, 313 U.S. 299, 314 (1941); *United States* v. *Mosley*, 238 U.S. 383, 386 (1915). This right extends to having their congressional votes count at full value, undiminished by arbitrary and irrational state action, to the end that an individual voter will not be deprived of his full measure of participation in the selection of representatives. *United States* v. *Saylor*, 322 U.S. 385, 389 (1944). Yet, the right to cast a ballot of full value is of little consequence if a state may, by the arbitrary and irrational manipulation of congressional districts, deprive the ballot of practical significance.

Appellants maintain that their right as electors qualified under the laws of the United States and the State of North Carolina to full and equal representation in the United States House of Representatives is a privilege or immunity of national citizenship secured against invasion by the State of North Carolina. *Twining* v. *New Jersey*, 211 U.S. 78 (1908), sets out the controlling definition of the rights asserted:

> Privileges and immunities of citizens of the United States . . . are only such as arise out of the nature and essential character of the National Government, or are specifically granted or secured to all citizens or persons by the Constitution . . . . Thus, among the rights and privileges of National Citizenship recognized by this court [is] . . . the right to vote for National officers . . . .

Twining, 211 U.S. at 97.[25]

Since it is the Constitution of the United States which creates the right to vote for members of Congress, that right should be free from illegitimate or irrational abridgment by the State of North Carolina:

> The right of the people to choose . . . is a right established and guaranteed by the Constitution and hence is one secured by it to those citizens and inhabitants of the state entitled to exercise the right . . . . While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states . . . this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by [section] 2 of Art. I . . . .

United States v. *Classic*, 313 U.S. 299, 314-15 (1941).

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[25] *See also Slaughterhouse Cases*, 83 U.S. 36, 79 (1873): "It is said to be the right of the citizen of this great country, protected by implied guarantees of its Constitution, '. . . to share its offices, to engage in administering its functions.' " (Citing *Crandall* v. *Nevada*, 73 U.S. (6 Wall.) 35, 44 (1867).

The court also concluded that appellants' argument "presupposes that the Privileges or Immunities Clause protects a citizen's right to live in a regularly shaped congressional district." App. A at 14a. This characterization is at odds with the clear allegations of appellants' complaint. While plaintiffs' other causes of action rest principally on the disparate treatment of persons within the State of North Carolina, the claim under the privileges or immunities clause alleges that the configuration of Chapter 7 is so unusual and egregious that it places plaintiffs at an electoral disadvantage not suffered by voters in other states with more rational districts. Complaint para. 115; App. D at 50a-51a.

Appellants urge that nothing in the Constitution of the United States should be found "redundant" merely because, until now, redistricting litigants have rarely relied upon it.

VII. NORTH CAROLINA'S CONGRESSIONAL DISTRICT CONFIGURATIONS ARE NOT NECESSARY TO COMPLY WITH THE VOTING RIGHTS ACT

It cannot be credibly suggested that the Voting Rights Act of 1965, *as amended,* requires the creation of congressional districts of the sort at issue here. Even if the Voting Rights Act were to be construed in the pretextual manner argued by appellees, nothing in the Act or its application by the Department of Justice would have required the convoluted and irrational intertwining of Districts 5, 9, 10 and 11 in the western part of the state. *See* Apps. D and F.

Finally, the existence and availability of reasonable alternative plans which create two majority-minority districts, while remaining contiguous and relatively compact, belie any suggestion that districts of the sort in Chapter 7 are required by the Voting Rights Act. *See, e.g.,* Declaration of Bernard Grofman; App. E at 89a-191a.[26] Appellants submit that the Voting Rights Act was intended

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[26] *See e.g.* App. E at 163a-167a, describing an alternative plan proposed by the League of Women Voters.

to protect existing and cohesive minority communities from being submerged into larger white districts.[27] The Act was not intended to grant license to either political party to arbitrarily "invent" minority communities, separated by hundreds of miles, and connected only by a road, a "point," or less in order to achieve partisan political advantage at the expense of the voters' equal protection and other constitutional rights.[28]

Appellants suggest that the confluence of advanced computer technology and the first nationwide application of the 1982 amendments to the Voting Right Act has created a conflict of redistricting standards that cries out for resolution by this Court.[29] This case presents the Court with an opportunity to reinforce the notions of rationality and common sense the congressional redistricting process.[30]

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[27] *See, e.g.*, the approach recently taken by a three-judge district court in *De Grandy* v. *Wetherell*, No. TCA92-40015-WS (N.D. Fla. May 29, 1992) (especially *slip opinion* at 22.)

[28] It should be noted that, subsequent to the dismissal of appellants' complaint below, an unrelated group of plaintiffs filed a complaint against Chapter 7 in the United States District Court for the Eastern District of North Carolina, Raleigh Division. *Shaw* v. *Barr*, No. 92-202-CIV-5-BR (E.D. N.C. filed Mar. 12, 1992) (*dismissed* April 27, 1992) (*notice of appeal* filed May 27, 1992). The plaintiffs there did not base their claim on the assertion that Chapter 7 was formulated to benefit any particular political party or incumbent. Instead, their claim was "grounded on the unconstitutional interpretation and application of the Voting Rights Act by [the U.S. Department of Justice], and the coerced and enforced acceptance of that interpretation and application by . . . the State of North Carolina." *Shaw, supra*, Complaint at 2. The *Shaw* plaintiffs alleged that the use of the Voting Rights Act as a justification for the districts in Chapter 7 violates the language of 42 U.S.C. § 1973(b) which provides ". . . that nothing in [section 1973] establishes a right to have members of a protected class elected in numbers equal to their proportion in the population." *Id.* at para. 24.

[29] The potential for cartographic mischief is so much greater in the context of congressional redistricting than in legislative districting, since congressional districts are generally so much larger in population, and thereby cover more territory.

[30] This is not an argument that "the sky is falling." The wreckage has already hit ground in North Carolina, and is scattered across the

CONCLUSION

For the foregoing reasons, this Court should note probable jurisdiction of this appeal.

Respectfully submitted,

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June 19, 1992

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map of the state's congressional districts. Appellants suggest that this may be the inevitable result of the failure of plaintiffs in *Badham* v. *Eu*, *supra* to achieve relief from the 1980s gerrymander of California's congressional districts. As a commentator noted in connection with that litigation: "One might add that the California congressional stakes are quite real in national terms. . . . And, in the more immediate context of judicial policy-making, as the court goes in the forthcoming California case, so may go the nation as far as the permissible limits of partisan gerrymandering." Longley, *Partisan Gerrymandering*, 10 A.P.S.A. Newsletter 1, 67 (1986). Incredibly, North Carolina's congressional district configurations make the much-maligned 1980s redistricting of California appear benign by comparison.

APPENDIX A:
Opinions and Order of the Court Below

APPENDIX A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL ACTION NO. 3:92CV71-P

JAMES ARTHUR "ART" POPE, et al.,

Plaintiffs

v.

DANIEL T. BLUE, JR.,

Defendants.

FILED
CHARLOTTE, N.C.

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U.S. DISTRICT COURT
W. DIST. OF N.C.

Three-Judge District Court

Before ERVIN, Chief Circuit Judge, BRITT, District Judge, and POTTER, Senior District Judge.

ORDER AND JUDGMENT

For the reasons stated in a memorandum opinion filed contemporaneously herewith,

IT IS ORDERED AND ADJUDGED that plaintiffs' claims are dismissed under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted.

The temporary restraining order issued by the district court was dissolved as of the declaration of our decision made from the bench on March 9, 1992.

This 16th day of April, 1992.

Sam J. Ervin, III
Sam J. Ervin, III

W. Earl Britt
W. Earl Britt

Robert D. Potter

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL ACTION NO. 3:92CV71-P

JAMES ARTHUR "ART" POPE, et al.,
Plaintiffs,

v.

DANIEL T. BLUE, JR., et al.,
Defendants.

FILED
CHARLOTTE, N.C.

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U.S. DISTRICT COURT
W. DIST. OF N.C.

MEMORANDUM OPINION AND ORDER

Thomas F. Ellis, Thomas A. Farr and Sean Callinocos, Maupin, Taylor, Ellis & Adams, Raleigh, N.C., and Michael A. Hess, Washington, D.C., for plaintiffs.

Lacy H. Thornburg, Atty. Gen., Edwin M. Speas, Jr., Senior Deputy Atty. Gen., H. Jefferson Powell, Special Counsel to the Atty. Gen., Tiare B. Smiley, Special Deputy Atty. Gen., Norma S. Harrell, Special Deputy Atty. Gen., and Daniel F. McLawhorn, Special Deputy Atty. Gen., Raleigh, N.C., for defendants.

Filed: March ___, 1992 [sic].

MEMORANDUM OPINION AND ORDER

Before ERVIN, Chief Circuit Judge, POTTER and BRITT, District Judges.

ERVIN, Chief Circuit Judge:

The Republican Party of North Carolina, thirty registered Republicans, nine registered Democrats, and three citizens not affiliated with either party (hereinafter, collectively, "the plaintiffs") brought this action to challenge the State of North Carolina's federal congressional redistricting plan. The defendants are various state officials and agencies who participated in the adoption or implementation of the redistricting plan. The defendants' Rule 12(b)(6) motion to dismiss for failure to state a claim is pending before us. Holding that the plaintiffs have not alleged facts sufficient to state a claim, we grant the motion to dismiss with prejudice.

I.

We first set out the factual background to this controversy. Because we are ruling on a 12(b)(6) motion to dismiss, we must take the allegations in the plaintiffs' complaint as true. *See, e.g., Finlator v. Powers*, 902 F.2d 1158, 1160 (4th Cir. 1990). Thus, we summarize the allegations of the complaint as follows.

Before the 1970's, North Carolina was essentially a one-party state, with Democrats controlling the state government in all respects. That situation changed in the 1970's, as voters elected the first Republican governor and the first Republican United States Senator in this century. Republican successes continued in the 1980's. Currently, four of North Carolina's eleven United States Representatives, one of its two United States Senators, and its governor are Republicans. Registered Democrats outnumber registered Republicans by a two-to-one ratio.

The 1990 census showed that North Carolina's population had grown, entitling the state to a twelfth seat in the United States House of Representatives. The North Carolina General Assembly first passed redistricting legislation on July 9, 1991. According to the complaint, Democratic majorities in both the state house and senate prevented Republicans from having any influence in the redistricting process. The state's Republican governor was also unable to prevent Democratic gerrymandering, because North Carolina is the only state without gubernatorial veto power. The first redistricting legislation created one district with a majority of black voters, located in northeastern North Carolina. In order to protect white Democratic congressmen at the expense of Republicans, the General Assembly had to make the district very contorted. The state then submitted the proposed redistricting legislation to the United States Department of Justice ("DOJ") for preclearance, which the Voting Rights Act of 1965 requires.

On December 18, 1991, the DOJ objected to the legislation because the state had not shown that its failure to create a second minority district did not impermissibly dilute minority voting strength. In response, after one day of deliberation, the General Assembly passed the redistricting legislation at issue here, Chapter 7 (Extra Session 1991) (hereinafter "the Plan"), on January 24, 1992. The Plan creates a second minority district ("District 12") that snakes diagonally across North Carolina in a thin, 160 mile long band, connecting black neighborhoods from Durham to Gastonia. District 12 is so narrow that for much of its length it only encompasses Interstate 85. As a result of District 12 and other features of the Plan, many precincts, counties, and towns in North Carolina are divided among two or even three congressional districts. Many of the plaintiffs live in areas that are so affected. In creating the Plan, the Democratic majority rejected more compact plans that both Republicans and non-partisan groups had offered.

the Plan creates districts that are as equally populated as is mathematically possible. Seven of the districts have a population of 552,386, and the other five districts have a population of 552,387. On February 6, 1992, the DOJ approved the Plan.

II.

In their complaint, the plaintiffs raise challenges to the Plan under a number of different constitutional provisions. We will address each of these arguments in turn.

The plaintiffs' primary contention is that the Plan violates their rights under the Fourteenth Amendment of the United States Constitution. The relevant part of that Amendment states: "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. amend. XIV, § 2.[1]

Under the law as most recently interpreted by the Supreme Court, we must consider the plaintiffs' equal protection claim as presenting a justiciable issue. In *Baker v. Carr*, 369 U.S. 186 (1962), the Court first acknowledged

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[1] Plaintiffs contend that the Plan infringes their right to vote in violation of the Due Process Clause of the Fourteenth Amendment in addition to the Equal Protection Clause. However, the complaint does not allege that plaintiffs have, by any means, been deprived of their right to vote, only that their vote, as a result of the Plan, has been devalued relative to other voters in the state. We believe that this claim properly falls under the Equal Protection Clause and, consistent with Supreme Court precedent, we will discuss the claim solely in relation to that provision. *See, e.g., Reynolds v. Sims*, 377 U.S. 533, 524 (1964) ("We indicated in *Baker* . . . that the Equal Protection Clause provides discoverable and manageable standards for use by lower courts in determing the constitutionality of a state legislative scheme."). To the extent that the plaintiffs argue that the Plan violates the Fourteenth Amendment Due Process Clause as the vehicle of incorporation for other substantive constitutional rights, we discuss these claims below.

the justiciability of equal protection claims in relation to legislative districting. *Baker* itself, and the majority of cases subsequent to *Baker*, involved challenges to districts that were unequal in population. *E.g.*, *Reynolds v. Sims*, 377 U.S. 533 (1964); *Wesberry v. Sanders*, 376 U.S. 1 (1964). In other cases, the Court recognized the justiciability, even in the absence of population deviations among the districts, of claims of racial gerrymandering. *See United Jewish Orgs. of Williamsburgh, Inc. v. Carey*, 430 U.S. 144 (1977); *Wright v. Rockefeller*, 376 U.S. 52 (1964). Most recently, in *Davis v. Bandemer*, 478 U.S. 109 (1986), a majority of the Court ruled that an equal protection claim resulting from a purely political gerrymandering scheme presented a justiciable issue.

In granting the justiciability of political gerrymandering claims, however, a plurality of the *Bandemer* Court outlined stringent requirements for what could constitute a viable cause of action. Due to the fact that a minority of the Court opposed a finding of justiciability under any circumstances, this plurality opinion must be considered controlling as the position which concurs in the judgment on the narrowest grounds. *See Badham v. March Fong Eu*, 694 F. Supp. 664, 668-69 (N.D. Cal. 1988), *aff'd mem.*, 488 U.S. 1024 (1989).[2]

The *Bandemer* plurality ruled that, as in the racial gerrymandering cases, it is necessary for a plaintiff to "prove

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[2] We note that, unlike a denial of certiorari, a summary affirmance by the Supreme Court, pursuant to the exercise of its appellate jurisdiction, creates precedential authority binding on the lower courts. *See* 12 Moore's Federal Practice ¶ 400.05-1. We recognize that is is the judgment, not necessarily the reasoning, of the lower court's opinion that is affirmed by the Supreme Court's summary action. *See Mandel v. Bradley*, 432 U.S. 173, 176 (1977). Nevertheless, due in particular to the fact that the *Bandemer* Court was unable to agree on a majority opinion, we believe that the *Badham* court's interpretation of *Bandemer*, subsequently summarily affirmed by the Supreme Court, is entitled to substantial deference.

both intentional discrimination against an identifiable political group and an actual discriminatory effect on that group." 478 U.S. at 127. In the present case, the complaint makes abundant allegations regarding the discriminatory intent of the General Assembly in its crafting of the serpentine legislative districts. Taking the allegations of the complaint as true, we have no trouble in finding that the Plan was designed with at least a partial purpose of disadvantaging a specific political group.[3] As the *Bandemer* plurality acknowledged, "As long as redistricting is done by a legislature, it should not be very difficult to prove that the likely political consequences of the reapportionment were intended." *Id.* at 129.

It is on the issue of discriminatory effect that we find the plaintiffs' complaint insufficient to state a valid claim. Recognizing that redistricting is an inherently political process, the *Bandemer* plurality rejected the notion that unconstitutional discriminatory effect could be shown by "the mere fact that a particular apportionment scheme makes it more difficult for a particular group in a particular district to elect the representatives of its choice." *Id.* at 131. Instead, the plurality ruled that discriminatory effect in political gerrymandering cases would only be found "when the electoral system is arranged in a manner that will consistently degrade a voter's or a group of voters' influence on the political process as a whole." *Id.* at 132. *Bandemer* reversed a three-judge panel that had invalidated a redistricting scheme based largely on the dispro-

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[3] Perplexingly, as noted above, a substantial minority of the plaintiffs in this case are registered as members of the Democratic Party or as Independents. Inclusion of these plaintiffs substantially detracts from the plaintiffs' status as an "identifiable group." In the ensuing papers and at oral argument on this motion, plaintiffs exclusively advanced the theory that their "identifiable group" consisted of Republican voters. We will assume that the plaintiffs' action is premised on this theory, as it is the only coherent theory on which this litigation could advance.

portionate representation of a political party resulting after a single election under that scheme. The Court held that a plaintiff group must prove "a history (actual or projected) of disproportionate results" in conjunction with indicia that the group has "essentially been shut out of the political process." *Id.* at 139. The *Badham* court, in a decision subsequently affirmed by the Supreme Court, took an expansive view of "the political process as a whole." That court dismissed under Rule 12(b)(6) an equal protection claim premised on political gerrymandering, noting the lack of any allegations regarding interference in the "registration, organizing, voting, fund-raising, or campaigning" of the purportedly disadvantaged group. 694 F. Supp. at 670. In the present case, the plaintiffs have relied exclusively on claims of disproportionate representation to advance their equal protection argument. The complaint alleges that the "denial and abridgement of plaintiffs' constitutional rights has occurred because [the Plan] serves primarily to further the interests of white incumbent Democratic Congressmen in avoiding competitive elections at the expense of the rights of those citizens living in the disfavored geographic locations." Complaint, ¶ 91. The gravamen of the plaintiffs' action is that the Plan adopted by the Democratic legislature will result in disproportionately high representation for the Democratic Party in the state's congressional delegation.

We note that in *Bandemer* the plurality held that the results of a single election were insufficient to establish discriminatory effect. Here, we do not even have a single election to corroborate the plaintiffs' allegations of disproportionate representation. Nevertheless, taking the allegations of the complaint as true, we grant that the plaintiffs could, theoretically, prove that the Plan would establish a "projected history" of disproportionate results.

The plaintiff's complaint fails under the second prong of the test for discriminatory effect as outlined by *Bandemer* and *Badham*. The plaintiffs do not allege, nor can

they, that the state's redistricting plan has caused them to be "shut out of the political process." First, as conceded in the complaint, a number of "safe" Republican districts have been created by the Plan. Complaint, ¶ 76. In addition, we recognize the principle, as articulated in *Bandemer,* that "the power to influence the political process is not limited to winning elections." 478 U.S. at 132. As *Bandemer* points out, "An individual or a group of individuals who votes for a losing candidate is usually deemed to be adequately represented by the winning candidate and to have as much opportunity to influence that candidate as other voters in the district." *Id.* Plaintiffs do not allege that Republicans in the Democratic majority districts are precluded from influencing the actions of their Congressmen. Finally, as in *Badham,* there are no allegations that "anyone has ever interfered with Republican registration, organizing, voting, fund-raising, or campaigning." 694 F. Supp. at 670. To the extent that the plaintiffs allege disruption in these electoral activities, the disruptions are alleged to be caused by the distorted and elongated shapes of the electoral districts. However, such disruptions fall indiscriminately on individuals within the allegedly disadvantaged group and individuals outside the group, and thus cannot form the predicate for an equal protection claim.[4]

When challenged at oral argument to point to specific portions of their complaint that alleged the requisite exclusion from the political process, plaintiffs continually referred to their exclusion from the process of redistricting.

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[4] In fact, according to the complaint, the least compact of the districts, District 12, is comprised of approximately 56% black voters and is expected to be solidly Democratic. Complaint, ¶ 78. Interference with normal organizing and campaigning activities could be expected to be particularly acute in this district, which spans the state's three largest media markets and stretches over 160 miles. Plaintiffs cannot take comfort from this fact, because at no point did the plaintiffs purport to represent an "identifiable group" consisting exclusively of District 12 voters.

Plaintiffs found particularly significant the fact that North Carolina's governor does not possess the power to veto legislation, placing the redistricting power wholly in the hands of the invariably Democrat-dominated state legislature. In emphasizing this circumstance, the plaintiffs misconstrue the required showing for purposes of proving discriminatory effect.

The Republicans' exclusion from the process of redistricting is relevant to the discriminatory *intent* of the designers of the Plan. The fact that the Plan was allegedly crafted without meaningful Republican checks and balances is certainly probative as to the General Assembly's purported anti-Republican bias. However, under the requirements of *Bandemer* for showing discriminatory *effect*, the plaintiffs must show that they have been or will be consistently degraded in their participation in the entire political process, not just in the process of redistricting. *See Bandemer*, 478 U.S. at 132. Neither the Republican party nor any other identifiable group conceivably represented by the plaintiffs in this case can make this showing. As a result, we hold that plaintiffs' complaint does not state a viable equal protection claim as outlined by the Supreme Court in *Davis v. Bandemer*.

The plaintiffs' second contention is that the Plan violates Article I, Section 2 of the Constitution, which states that "[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States." Under prior Supreme Court cases, the plaintiffs' claim is without basis, because:

> [T]he Court has made it clear that Article I, Section 2 only proscribes districts of unequal population. Claims regarding the political makeup of those districts must be judged by the more rigorous standards of the Fourteenth Amendment, as outlined in *Davis v. Bandemer*.

Badham, 694 F. Supp. at 674-75. There is no Article I, Section 2 violation here. The Plan creates seven districts with an equal population (552,386) and five districts that vary by only one person (552,387). Greater population equality among the districts is impossible.

In their complaint, the plaintiffs argue that the General Assembly could program a computer to create several redistricting plan that had equipopulous districts, complied with the Voting Rights Act, and in addition formed compact, contiguous districts. While this may be true, the Constitution does not require it. The Supreme Court has often recognized that redistricting is an inherently political process. *See, e.g., Bandemer*, 478 U.S. at 126 ("[P]olitics and political considerations are inseparable from districting and apportionment") (quoting *Gaffney v. Cummings*, 412 U.S. 735, 753 (1973)). While requiring the General Assembly to adopt non-partisan, computer-generated districts might be a good idea, it clearly goes beyond what the Constitution mandates.

Next, the plaintiffs claim that the Plan violates the First Amendment by either creating a "chilling effect" on their freedom of speech or limiting their freedom of association. Neither position states a cause of action. First, the *Badham* court considered and rejected the same "chilling effect" argument:

> The concept of a "chilling effect" is associated with the doctrine of overbreadth, and describes the situation where persons whose expression is protected are deterred from exercising their rights by the existence of an overly broad statute regulating speech. *See, e.g., New York v. Ferber*, 458 U.S. 747, 768, 772 & n.27 (1982). While plaintiffs may be discouraged by their lack of electoral success, they cannot claim that [the redistricting plan] regulates their speech or subjects

> them to any criminal or civil penalties for engaging in protected expression.

Badham, 694 F. Supp. at 675. We agree with the *Badham* court's analysis and find it dispositive as to our plaintiffs' "chilling effect" claim. Second, the Fourth Circuit has previously rejected a freedom of association claim in *Washington v. Finlay*, 664 F.2d 913 (4th Cir. 1981). *Washington* was a vote dilution case in which the plaintiffs challenged an at-large election system. In discussing the freedom of association claim in *Washington*, the court stated:

> The first amendment's protection of the freedom of association and of the rights to run for office, have one's name on the ballot, and present one's views to the electorate do not also include entitlement to success in those endeavors. . . . Where, as here, the only challenged governmental act is the continued use of an at-large election system, and where there is no device that directly inhibits participation in the political process, the first amendment, like the thirteenth, offers no protection of voting rights beyond that afforded by the fourteenth and fifteenth amendments.

664 F.2d at 927-28. We believe the reasoning and holding in *Washington* apply equally here. Because there is no "device that directly inhibits participation in the political process," the plaintiffs' freedom of association claim boils down to the argument that they are entitled to political success. *Washington* rejected that position, and we hold as in *Washington* that the plaintiffs' freedom of association claim is coextensive with the equal protection claim that we address above.

The plaintiffs' fourth cause of action alleges that the Plan violates the First Amendment's Petition Clause. The First Amendment guarantees "the right of the people . . . to petition the government for a redress of grievances." The plaintiffs have completely failed to show that the Plan

has any effect on their right of petition. In fact, this cause of action merely restates the plaintiffs' freedom of association argument:

> [The Plan] impermissibly interferes with an dilutes the rights of plaintiffs as members of certain identifiable and cognizable geographic, jurisdictional and political communities of interest to communicate with each other on important issues of public policy, and to associate with each other in the expression and advocacy of opinions on those issues to their elected representatives.

Complaint, ¶ 110. We reject the plaintiffs' right-of-petition cause of action for the same reason we discuss above.

Finally, the plaintiffs claim that the Plan violates the Fourteenth Amendment's Privileges or Immunities Clause. Section 1 of the Fourteenth Amendment states:

> All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. . . .

The plaintiffs' claim is that "the configuration of [the Plan] is so unusual and egregious that it places plaintiffs at an electoral disadvantage not suffered by voters in other states with more rational districts." Plaintiffs' Mem. Supp. Prelim. Inj. & Opp. Mot. to Dismiss at 54. The argument presupposes that the Privileges or Immunities Clause protects a citizen's right to live in a regularly shaped congressional district.

We find no precedent to suggest that the Privileges or Immunities Clause protects such a right. While the history and languages of the clause indicate that Congress intended it to have broad application, "courts rarely rely upon [it] to protect the privileges of citizens." Laurence

H. Tribe, *American Constitutional Law* 548 (1988). Tribe notes that commentators treat the clause as "essentially dormant" and that a Supreme Court Justice once called it "the almost forgotten . . . clause." *Id.* n.4 (*citing Colgate v. Harvey,* 296 U.S. 404, 443 (Stone, J., dissenting)). In fact, the Supreme Court overruled *Colgate,* the only case in which a Court majority has ever held that a state provision violated the Privileges or Immunities Clause, in *Madden v. Kentucky,* 309 U.S. 83 (1940). While Tribe and others urge litigants to "treat the clause as alive and potentially robust," he concedes that "[i]n sum, the privileges or immunities clause appears technically redundant—so far." Tribe, *supra,* at 558-59. We see no legal basis for breathing new life into the clause.

III.

The Supreme Court has recognized and has consistently accepted the view that redistricting is an inherently political process. While members of the minority political party in any redistricted state may be apt to bemoan their fate, they can take solace in the fact that even the best laid plans often go astray: "In order to gerrymander, the legislative majority must weaken some of its safe seats, thus exposing its own incumbents to greater risks of defeat. . . . [A]n overambitious gerrymander can lead to disaster for the legislative majority." *Bandemer,* 478 U.S. at 152 (O'Connor, J., concurring) (citation omitted).

It is tempting to agree with the contention at oral argument that, just by showing the court a map of North Carolina's new congressional districts, the plaintiffs must have stated some cause of action. However, prior Supreme Court decisions have wisely counseled us to resist that temptation. Until we hear otherwise from a higher authority, we ORDER that defendants' motion to dismiss the plaintiffs' complaint be GRANTED with prejudice.

Sam J. Erwin, III
Sam J. Erwin, III

W. Earl Britt
W. Earl Britt

Robert D. Potter

I believe the complaint filed by the Plaintiffs contains sufficient allegations of both discriminatory intent and effect to withstand the Defendants' Rule 12(b)(6) motion to dismiss. I would allow the Plaintiffs an opportunity to put on their evidence. As such, I respectfully dissent.

Robert D. Potter
Robert D. Potter

APPENDIX B:
Temporary Restraining Order

APPENDIX B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL ACTION NO. _____

JAMES ARTHUR "ART" POPE, et al.,
Plaintiffs,

v.

DANIEL T. BLUE, JR., et al.,
Defendants.

FILED
CHARLOTTE, N.C.

FEB 28 1992

U.S. DISTRICT COURT
CHARLOTTE, N.C.

TEMPORARY RESTRAINING ORDER

This matter is now before the court on plaintiffs' motion for a temporary restraining order, filed pursuant to Rule 65(b), Fed.R.Civ.P. Based upon the allegations in the complaint and affidavits filed by the plaintiffs in support of their motion the court finds as follows:

1. Plaintiffs are challenging the constitutionality of the Congressional Districts established by United States Congress in the State of North Carolina by virtue of an act by the North Carolina General Assembly, Chapter 7 (1991 Extra Session) ("Chapter 7").

2. Plaintiffs contend that the Congressional Districts established by Chapter 7 have the effect of depriving them of certain constitutional rights guaranteed by the United States Constitution including the rights of equal protection, due process, the right to elect members of Congress, the right of freedom of association, the right to petition the government for the redress of grievances, and other privileges and immunities secured to plaintiffs under the Constitution.

3. The court finds that failure to grant plaintiffs temporary injunctive relief would cause irreparable harm to plaintiffs' constitutional rights and could bar the court from granting preliminary or permanent injunctive relief at some later date in this proceeding. *See Hendon v. North Carolina State Board of Elec.*, 710 F.2d 177, 182 (4th Cir. 1983).

Based upon the allegations in plaintiffs' complaint and the affidavits filed by plaintiffs in support of this motion, and for the reasons stated herein, the court finds that plaintiffs' motion is supported by good cause and that said motion is HEREBY GRANTED. It is therefore ORDERED that defendant North Carolina State Board of Elections extend the deadline for filing notices of candidacy for election to the United States House of Representatives from the State of North Carolina from March 2, 1992, until such time as this Order expires or such other date as may be established by the court should the court elect to extend this order.

Unless modified by the court upon a showing of good cause, or upon the consent of the defendant State Board of Elections, this temporary restraining order shall expire at 4:23 p.m. on 10th, March, 1992. IT IS FURTHER ORDERED that plaintiffs and defendant State Board of Elections shall appear before this court at 9:30 a.m. on 9th, March, 1992, or such other date as may be set by the court, to determine whether good cause exists for the court to issue a preliminary injunction.

This Temporary Restraining Order described above shall issue upon the posting by plaintiffs of a bond in the amount of $ invoiced with the Clerk, pursuant to Rule 65(c), Fed.R.Civ.P., to insure against any injury to defendant as a result of this Order.

The court directs that the United States Marshall's office *forthwith* arrange for the immediate service of a copy of this Order on defendant, North Carolina Board of Elections.

SO ORDERED.

This the 28th day of February, 1992 at 4:23 p.m.

/s/ Robert Potter

APPENDIX C:
Notice of Appeal

APPENDIX C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Action No. 3:92CV71-P

JAMES ARTHUR "ART" POPE, *et al.*,
Plaintiffs,

v.

DANIEL T. BLUE, JR., *et al.*,
Defendants.

THREE-JUDGE COURT

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

FILED
CHARLOTTE, N.C.

APR 21 92 9:47

U.S. DISTRICT COURT
W. DIST. OF N.C.

Notice is hereby given that plaintiffs hereby appeal to the Supreme Court of the United States from the Order and Judgment of the three-judge district court entered on April 16, 1992, dismissing the Complaint in this action.

This appeal is taken pursuant to section 1253 of Title 28 of the United States Code.

Date: April 20, 1992

MAUPIN TAYLOR ELLIS & ADAMS, P.A.

BY: /s/ Thomas F. Ellis
Thomas F. Ellis

BY: /s/ Thomas A. Farr
Thomas A. Farr

BY: /s/ Sean Callinicos
Sean Callilnicos
3200 Beechleaf Court, Suite 500
Post Office Drawer 19764
Raleigh, North Carolina 27619-9764
Telephone: (919) 981-4000

BY: /s/ Michael A. Hess
Michael A. Hess
310 First Street, S.E.
Washington, D.C. 20003

Counsel for Applicants

[Certificate of Service omitted in this printing]

APPENDIX D:
Complaint and Selected Exhibits to the Complaint

APPENDIX D

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL ACTION NO. _____

JAMES ARTHUR "ART" POPE, ROBIN WHITE DRYE, GILBERT S. PLYLER, BOBBY E. COMBS, KENNETH D. MILLER, ROBERT N. PHILLIPS, JAMES L. STEINER, MARILYNN M. WRIGHT, W.L. HYLTON, DAVID W. BREWER, DONALD PENN NEAL, JENNY J. JONES, THOMAS L. SMITH, MARY N. COBLENTZ, PAUL DZIEZYC, CARSON R. CURLEE, CAROLYN OSIAN, S. LEE HALL, PETE HARVEY, JAMES N. COHEN, JR., DAVID WHISENANT, DAVID C. HARRISON, ANGELA S. HARRISON, CHARLENE PIETAK, JOHN PIETAK, SUSAN W. SMITH, WILLIAM I. WARD, JR., ARNOLD T. HENSLEY, ALBY S. ELLER, LILIAN P. MCGRATH, GRAYLYN FAULKENBERRY, DEBBIE ELMORE, JAMES C. WASHAM, MALCOLM LESTER, ROBERT T. SIMPSON, BENNY H. PAGE, HENRY HOWARD DANIELEY, ELIZABETH MULLINS DANIELEY, JERRY W. RUDD, KATHERINE M. RUDD, MARTHA ANN KRAYCIRIK and DAVID CARLTON MURRAY, NORTH CAROLINA REPUBLICAN PARTY, and JACK HAWKE, individually and in his official capacity as Chairman of the North Carolina Republican Party,

Plaintiffs,

v.

DANIEL T. BLUE, JR., in his official capacity as Speaker of the North Carolina House of Representatives; HENSON P. BARNES, in his official capacity as President Pro Tempore of the North Carolina Senate; RUFUS L. EDMISTEN, in his official capacity as Secretary of State of the State of North Carolina; JAMES G. MARTIN, in his official capacity as

Governor of the State of North Carolina; THE NORTH CAROLINA STATE BOARD OF ELECTIONS; M.H. HOOD ELLIS, in his official capacity as Chairman of the North Carolina State Board of Elections; GREGG O. ALLEN, WILLIAM A. MARSH, JR., RUTH TURNER, and JUNE K. YOUNGBLOOD, in their official capacities as members of the North Carolina State Board of Elections,

Defendants.

COMPLAINT AND MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY AND PERMANENT INJUNCTION

PRELIMINARY STATEMENT

This is an action challenging the constitutionality of the statewide redistricting of the State of North Carolina's congressional districts with particular emphasis on the constitutionality of the proposed Twelfth Congressional District. Plaintiffs seek declaratory and injunctive relief, including a temporary restraining order and/or a preliminary injunction extending the deadline for filing notices of candidacy for election to the United States House of Representatives, until there has been a further redistricting of congressional districts which complies with the Constitution and laws of the United States.

JURISDICTION

1. This action arises under Article I § 2 and the First and Fourteenth Amendments of the Constitution of the United States, 42 U.S.C. §§ 1983 and 1988, and 2 U.S.C. § 2.

2. This Court has original jurisdiction of this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), 1367 and 2284.

THREE-JUDGE DISTRICT COURT

3. Convocation of a Three-Judge District Court is required by 28 U.S.C. § 2284 because this action challenges the constitutionality of the statewide apportionment of congressional districts for the State of North Carolina.

PARTIES

4. Plaintiff James Arthur "Art" Pope is a registered voter and resident of the Fourth Congressional District of the State of North Carolina and is a resident of Wake County. Plaintiff Pope also currently serves as a Republican member of the North Carolina House of Representatives from the 61st Legislative District. During the debate over the 1991-92 redistricting efforts by the General Assembly, Mr. Pope attended public hearings on various proposals and participated in the House Committee on Local and Legislative Redistricting.

5. Plaintiff Robin White Drye is a resident of Iredell County and a member of the Republican Party. Ms. Drye votes in the Chambersburg precinct, in Iredell County. Prior to the 1992 congressional redistricting, Ms. Drye was registered to vote in the Ninth North Carolina Congressional District. Since the 1992 redistricting, Ms. Drye now resides and will vote in the Tenth Congressional District.

6. Plaintiff Gilbert S. Plyler is a resident of Iredell County and a member of the Republican Party. Mr. Plyler votes in the Chambersburg precinct, in Iredell County. Prior to the 1992 congressional redistricting, Mr. Plyler was registered to vote in the Ninth North Carolina Congressional District. Since the 1992 redistricting, Mr. Plyler now resides and will vote in the Eighth Congressional District.

7. Plaintiff Bobby E. Combs is a resident of Iredell County and a member of the Republican Party. Mr. Combs votes in the Chambersburg precinct, in Iredell County.

Prior to the 1992 congressional redistricting, Mr. Combs was registered to vote in the Ninth North Carolina Congressional District. Since the 1992 redistricting, Mr. Combs now resides and will vote in the Tenth Congressional District.

8. Plaintiff Kenneth D. Miller is a resident of Iredell County and a member of the Republican Party. Mr. Miller votes in the Chambersburg precinct, in Iredell County. Prior to the 1992 congressional redistricting, Mr. Miller was registered to vote in the Ninth North Carolina Congressional District. Since the 1992 redistricting, Mr. Miller now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 120 miles from Durham, North Carolina and approximately 60 miles from Gastonia, North Carolina. His principal sources of news are the Statesville Record & Landmark, a newspaper published in Statesville, North Carolina, and station WBTV Channel 3, a television station located in Charlotte, North Carolina.

9. Plaintiff Robert N. Phillips is a resident of Iredell County and a member of the Republican Party. Mr. Miller votes in the Chambersburg precinct, in Iredell County. Prior to the 1992 congressional redistricting, Mr. Phillips was registered to vote in the Ninth North Carolina Congressional District. Since the 1992 redistricting, Mr. Phillips now resides and will vote in the Tenth Congressional District.

10. Plaintiff James L. Steiner is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Steiner was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Steiner now resides and will vote in the Sixth Congressional District.

11. Plaintiff Marilynn M. Wright is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Ms. Wright was reg-

istered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Ms. Wright now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 110 miles from Durham, North Carolina and approximately 75 miles from Gastonia, North Carolina. Her principal sources of news are The Salisbury Post, a newspaper published in Salisbury, North Carolina, and station WBTV, a television station located in Charlotte, North Carolina.

12. Plaintiff W. L. Hylton is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Hylton was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Hylton now resides and will vote in the Eighth Congressional District.

13. Plaintiff David W. Brewer is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Brewer was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Brewer now resides and will vote in the Eighth Congressional District.

14. Plaintiff Donald Penn Neal is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Neal was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Neal now resides and will vote in the Eighth Congressional District.

15. Plaintiff Jenny J. Jones is a resident of Rowan County and a member of the Democratic Party. Prior to the 1992 congressional redistricting, Ms. Jones was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Ms. Jones now resides and will vote in the Sixth Congressional District.

16. Plaintiff Thomas L. Smith is a resident of Rowan County and a member of the Republican Party. Prior to

the 1992 congressional redistricting, Mr. Smith was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Smith now resides and will vote in the Sixth Congressional District.

17. Plaintiff Mary N. Coblentz is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Ms. Coblentz was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Ms. Coblentz now resides and will vote in the Eighth Congressional District.

18. Plaintiff Paul Dziezyc is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Dziezyc was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Dziezyc now resides and will vote in the Eighth Congressional District.

19. Plaintiff Carson R. Curlee is a resident of Rowan County and a member of the Democratic Party. Prior to the 1992 congressional redistricting, Mr. Curlee was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Curlee now resides and will vote in the Sixth Congressional District.

20. Plaintiff Carolyn Osian is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Ms. Osian was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Ms. Osian now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 110 miles from Durham, North Carolina and approximately 55 miles from Gastonia, North Carolina. Her principal sources of news are the Salisbury Post, a newspaper published in Salisbury, North Carolina, and station WBTV, a television station located in Charlotte, North Carolina.

21. Plaintiff S. Lee Hall is a resident of Rowan County and a member of the Republican Party. Prior to the 1992

congressional redistricting, Mrs. Hall was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mrs. Hall now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 115 miles from Durham, North Carolina and approximately 55 miles from Gastonia, North Carolina. Her principal sources of news are the Salisbury Post, a newspaper published in Salisbury, North Carolina, and Station WBTV, a television station located in Charlotte, North Carolina.

22. Plaintiff Pete Harvey is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Harvey was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Harvey now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 90 miles from Durham, North Carolina and approximately 60 miles from Gastonia, North Carolina. His principal sources of news are the Salisbury Post, a newspaper published in Salisbury, North Carolina, and Station WBTV, a television station located in Charlotte, North Carolina.

23. Plaintiff James N. Cohen, Jr., is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Cohen was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Cohen now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 105 miles from Durham, North Carolina and approximately 65 miles from Gastonia, North Carolina. His principal sources of news are the Salisbury Post, a newspaper published in Salisbury, North Carolina, and Station WSOC9, a television station located in Charlotte, North Carolina.

24. Plaintiff David Whisenant is a resident of Rowan County and a member of the Republican Party. Prior to

the 1992 congressional redistricting, Mr. Whisenant was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Whisenant now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 100 miles from Durham, North Carolina and approximately 60 miles from Gastonia, North Carolina. His principal sources of news are WSTP Radio, broadcasting from Salisbury, North Carolina, and Station WBTV, a television station located in Charlotte, North Carolina.

25. Plaintiff David C. Harrison is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Harrison was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Harrison now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 100 miles from Durham, North Carolina and approximately 75 miles from Gastonia, North Carolina. His principal sources of news are the Salisbury Post, a newspaper published in Salisbury, North Carolina, and Station WBTV, a television station located in Charlotte, North Carolina.

26. Plaintiff Angela S. Harrison is a resident of Rowan County and a member of the Democratic Party. Prior to the 1992 congressional redistricting, Ms. Harrison was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Ms. Harrison now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 100 miles from Durham, North Carolina and approximately 75 miles from Gastonia, North Carolina. Her principal sources of news are the Salisbury Post, a newspaper published in Salisbury, North Carolina, and Station WBTV, a television station located in Charlotte, North Carolina.

27. Plaintiff Charlene Pietak is a resident of Rowan County and a member of the Democratic Party. Prior to

the 1992 congressional redistricting, Ms. Pietak was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Ms.[sic] Pietak now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 80 miles from Durham, North Carolina and approximately 50 miles from Gastonia, North Carolina. Her principal source of news are the Salisbury Post, a newspaper published in Salisbury, North Carolina, and Station WSOC, a television station located in Charlotte, North Carolina.

28. Plaintiff John Pietak is a resident of Rowan County and is not a member of any political party. Prior to the 1992 congressional redistricting, Mr. Pietak was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Pietak now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 80 miles from Durham, North Carolina and approximately 50 miles from Gastonia, North Carolina. His principal sources of news are the Salisbury Post, a newspaper published in Salisbury, North Carolina, and Station WSOC, a television station located in Charlotte, North Carolina.

29. Plaintiff Susan W. Smith is a resident of Rowan County and a member of the Democratic Party. Prior to the 1992 congressional redistricting, Ms. Smith was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Mr. Smith [sic] now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 115 miles from Durham, North Carolina and approximately 55 miles from Gastonia, North Carolina. Her principal sources of news are the Salisbury Post, a newspaper published in Salisbury, North Carolina, and Station WSOC, a television station located in Charlotte, North Carolina.

30. Plaintiff, William I. Ward, Jr. is a resident of Mecklenburg County. Prior to the 1992 congressional redistrict-

ing, Mr. Ward was registered to vote in the Ninth North Carolina Congressional District. Since the 1992 redistricting, Mr. Ward now resides and will vote in the Eighth Congressional District.

31. Plaintiff Arnold T. Hensley is a resident of Gaston County and a member of the Democratic Party. Prior to the 1992 congressional redistricting, Mr. Hensley was registered to vote in the Tenth North Carolina Congressional District. Since the 1992 redistricting, Mr. Hensley now resides and will vote in the Ninth Congressional District. His place of residence is located approximately 165 miles from Durham, North Carolina and approximately 5 miles from Gastonia, North Carolina. His principal sources of news are the Gaston Gazette, a newspaper published in Gastonia, North Carolina, and station WBTV, a television station located in Charlotte, North Carolina.

32. Plaintiff Alby S. Eller is a resident of Rowan County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Ms. Eller was registered to vote in the Eighth North Carolina Congressional District. Since the 1992 redistricting, Ms. Eller is unsure in which Congressional District she now resides, although she believes it is still the Eighth.

33. Plaintiff Lilian P. McGrath is a resident of Mecklenburg County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Ms. McGrath was registered to vote in the Ninth North Carolina Congressional District. Since the 1992 redistricting, Ms. McGrath now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 140 miles from Durham, North Carolina and approximately 20 miles from Gastonia, North Carolina. Her principal sources of news are the Charlotte Observer, a newspaper published in Charlotte, North Carolina, and station WBTV, a television station located in Charlotte, North Carolina.

34. Plaintiff Graylyn Faulkenberry is a resident of Gaston County and a member of the Democratic Party. Prior to the 1992 congressional redistricting, Mr. Faulkenberry was registered to vote in the Tenth North Carolina Congressional District. Since the 1992 redistricting, Mr. Faulkenberry now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 160 miles from Durham, North Carolina and approximately 5 miles from Gastonia, North Carolina. His principal sources of news are the T.V. and radio, including station WSOC, a television station located in Charlotte, North Carolina.

35. Plaintiff Debbie Elmore is a resident of Gaston County and a member of the Democratic Party. Prior to the 1992 congressional redistricting, Ms. Elmore was registered to vote in the Tenth North Carolina Congressional District. Since the 1992 redistricting, Ms. Elmore now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 160 miles from Durham, North Carolina and approximately 5 miles from Gastonia, North Carolina. Her principal source of news is station WBTV, a television station located in Charlotte, North Carolina.

36. Plaintiff James C. Washam is a resident of Gaston County and a member of the Democratic Party. Prior to the 1992 congressional redistricting, Mr. Washam was registered to vote in the Tenth North Carolina Congressional District. Since the 1992 redistricting, Mr. Washam now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 160 miles from Durham, North Carolina and approximately 5 miles from Gastonia, North Carolina. His principal sources of news are the Charlotte Observer, a newspaper published in Charlotte, North Carolina, and station WBTV, a television station located in Charlotte, North Carolina.

37. Plaintiff Malcolm Lester is a resident of Mecklenburg County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Lester was registered to vote in the Ninth North Carolina Congressional District. Since the 1992 redistricting, Mr. Lester now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 140 miles from Durham, North Carolina and approximately 40 miles from Gastonia, North Carolina. His principal sources of news are the Charlotte Observer, a newspaper published in Charlotte, North Carolina, and Public Television, television stations located in Charlotte and Chapel Hill, North Carolina.

38. Plaintiff Robert J. Simpson is a resident of Durham County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Simpson was registered to vote in the Second North Carolina Congressional District. Since the 1992 redistricting, Mr. Simpson now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 0 miles from Durham, North Carolina and approximately 160 miles from Gastonia, North Carolina. His principal sources of news are the Herald-Sun, a newspaper published in Durham, North Carolina, and station WTVD, a television station located in Durham, North Carolina.

39. Plaintiff Benny H. Page is a resident of Alamance County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Page was registered to vote in the Sixth North Carolina Congressional District. Since the 1992 redistricting, Mr. Page now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 45 miles from Durham, North Carolina and approximately 145 miles from Gastonia, North Carolina. His principal sources of news are the Daily Times News, a newspaper published in Burlington, North Carolina, and station WFMY, a television station located in Greensboro, North Carolina.

40. Plaintiff Henry Howard Danieley is a resident of Alamance County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Danieley was registered to vote in the Sixth North Carolina Congressional District. Since the 1992 redistricting, Mr. Danieley now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 40 miles from Durham, North Carolina and approximately 175 miles from Gastonia, North Carolina. His principal sources of news are the Times-News, a newspaper published in Burlington, North Carolina, and station WFMY, a television station located in Greensboro, North Carolina.

41. Plaintiff Elizabeth Mullins Danieley is a resident of Alamance County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Ms. Danieley was registered to vote in the Sixth North Carolina Congressional District. Since the 1992 redistricting, Ms. Danieley now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 40 miles from Durham, North Carolina and approximately 175 miles from Gastonia, North Carolina. Her principal sources of news are the Times-News, a newspaper published in Burlington, North Carolina, and station WFMY, a television station located in Greensboro, North Carolina.

42. Plaintiff Jerry W. Rudd is a resident of Alamance County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Mr. Rudd was registered to vote in the Sixth North Carolina Congressional District. Since the 1992 redistricting, Mr. Rudd now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 30 miles from Durham, North Carolina and approximately 137 miles from Gastonia, North Carolina. His principal sources of news are the Daily Times, a newspaper published in Bur-

lington, North Carolina, and station WFMY, a television station located in Greensboro, North Carolina.

43. Plaintiff Katherine M. Rudd is a resident of Alamance County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Ms. Rudd was registered to vote in the Sixth North Carolina Congressional District. Since the 1992 redistricting, Ms. Rudd now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 30 miles from Durham, North Carolina and approximately 137 miles from Gastonia, North Carolina. Her principal sources of news are the Daily Times, a newspaper published in Burlington, North Carolina, and station WFMY, a television station located in Greensboro, North Carolina.

44. Plaintiff Martha Ann Kraycirik is a resident of Alamance County and a member of the Republican Party. Prior to the 1992 congressional redistricting, Ms. Kraycirik was registered to vote in the Sixth North Carolina Congressional District. Since the 1992 redistricting, Ms. Kraycirik now resides and will vote in the Twelfth Congressional District. Her place of residence is located approximately 35 miles from Durham, North Carolina and approximately 130 miles from Gastonia, North Carolina. Her principal sources of news is station WFMY, a television station located in Greensboro, North Carolina.

45. Plaintiff David Carlton Murray is a resident of Alamance County and is registered to vote as an Independent. Prior to the 1992 congressional redistricting, Mr. Murray was registered to vote in the Sixth North Carolina Congressional District. Since the 1992 redistricting, Mr. Murray now resides and will vote in the Twelfth Congressional District. His place of residence is located approximately 35 miles from Durham, North Carolina and approximately 140 miles from Gastonia, North Carolina. His principal sources of news are the Times News, a newspaper published in Burlington, North Carolina, and station

WFMY, a television station located in Greensboro, North Carolina.

46. Plaintiff North Carolina Republican Party is an unincorporated association that represents registered Republicans and other Republican voters in the State of North Carolina with its principal office in Wake County, North Carolina. Plaintiff Jack Hawke is the Chairman of the North Carolina Republican Party and a resident of Wake County, North Carolina.

47. Defendant Daniel T. Blue, Jr., is the Speaker of the North Carolina House of Representatives. He is sued in his official capacity.

48. Defendant Henson P. Barnes is the President Pro Tempore of the North Carolina Senate. He is sued in his official capacity.

49. Defendant Rufus L. Edmisten, Secretary of State of North Carolina, is charged with preparing a certificate of election for each person elected after the Board of Elections certifies the result to him, pursuant to N.C.Gen.Stat. § 163-193, and with recording the results of elections for the United States House of Representatives, pursuant to N.C.Gen.Stat. § 163-195.

50. Defendant James G. Martin is the Governor in and for the State of North Carolina and, in such capacity, is the Chief Executive Officer of the State charged with the duty of enforcing compliance with state legislation under Article II, Section 5(4) of the Constitution of North Carolina. Moreover, it is the Governor's duty to issue a commission to a person elected to the United States House of Representatives upon that person's production to the Governor of a certificate of his election from the Secretary of State, pursuant to N.C.Gen.Stat. § 163-194.

51. Defendant North Carolina Board of Elections has general supervisory of the primaries and elections in North Carolina, with the authority to promulgate rules and

regulations for the conduct of elections, pursuant to N.C.Gen.Stat. § 163-22.

52. Defendants M.H. Hood Ellis, Gregg O. Allen, William A. Marsh, Jr., Ruth Turner, and June K. Youngblood are members of the North Carolina Board of Elections, defendant M.H. Hood Ellis being the Chairman of said Board, all of said defendants being charged with exercising the powers and duties of the State Board of Elections pursuant to N.C.Gen.Stat. § 163-22.

VENUE

53. Venue of this action lies in the Western District of North Carolina, pursuant to 28 U.S.C. § 1391(b).

I. GENERAL ALLEGATIONS

54. Since the time of Reconstruction through the present, the political process in the State of North Carolina has been controlled and dominated by the North Carolina Democratic Party. Throughout this period, the Democratic Party has enjoyed substantial majorities in the North Carolina General Assembly and a near monopoly on candidates elected to the Council of State and state-wide judicial positions including positions on the Supreme Court and the Superior Court.

55. Beginning in the 1970s, the North Carolina Republican Party began to enjoy some success in state-wide elections. In 1972, the Honorable Jesse Helms became the first Republican Senator elected in North Carolina during the Twentieth Century. In that same year, the Honorable James Holshouser became the first Republican Governor elected in the Twentieth Century. Republican candidates for President also received approximately 50% of the vote in 1972 and 1976.

56. Republican success in state-wide elections continued in the 1980s. Republican presidential candidates carried

the State in 1980, 1984, and 1988. In 1980, the Honorable John P. East became the second Republican Senator elected in the Twentieth Century while the Honorable James Martin became the second Republican Governor in 1984. In 1988, the Honorable Robert Orr became the first Republican elected to the North Carolina Court of Appeals while the Honorable Howard Manning, Jr., became the first Republican in this century elected to the State Superior Court.

57. From the time of Reconstruction through the 1980s, both Houses of the North Carolina General Assembly have been controlled and dominated by the North Carolina Democratic Party. In order to retain its control, the Democratic Party, through its elected officials, has drafted and approved redistricting plans for both the state legislature and the Congress designed and intended to both protect Democratic incumbents and to prevent or limit the election of both Republicans and blacks. The Republican Party has had no meaningful access or input in any redistricting scheme adopted by the General Assembly since North Carolina is the only state in the United States in which the Governor lacks the veto power. During Governor Martin's term as Governor, the Democratic majority in the General Assembly has blocked repeated efforts to schedule a referendum for the people of North Carolina to vote on whether the Governor should have the veto. The Democratic majority in the General Assembly blocked these efforts, in part, to ensure that the Republican Party would continue to have no meaningful input into redistricting proposals in 1992 and beyond.

58. Since the time of Reconstruction through the present, the Democratic Party has been successful in its efforts to exclude or limit blacks and Republicans from the state legislature and the Congress. Blacks have consistently been underrepresented in the state legislature and no black has been elected to Congress in this century. The Democratic majority has repeatedly and consistently fragmented or

submerged black communities in order to enhance the election opportunities for white Democratic incumbents. Despite their state-wide success, Republicans have never achieved a majority in either state house and have also been underrepresented in the number of Republicans elected to Congress.

II. 1992 CONGRESSIONAL REDISTRICTING

59. According to the 1990 federal decennial census the population of the State of North Carolina is 6,628,637 persons, an increase of 746,871 persons since the 1980 decennial census.

60. This increase in population entitles the State of North Carolina to an additional member in the United States House of Representatives, increasing the size of the state's congressional delegation from 11 to 12 members, pursuant to 2 U.S.C. § 2.

61. Because of the increase in the sizes of the state's population and congressional delegation, the North Carolina General Assembly is required to redistrict the state's congressional districts, in conformity with the requirements of the Constitution of the United States, 2 U.S.C. § 2 and the Voting Rights Act of 1965, as amended.

62. The North Carolina General Assembly had at its disposal a computerized redistricting system that was used to create various redistricting plans. Because of arbitrary or partisan reasons, intended to advance the interests of Democratic incumbents, the State of North Carolina did not participate fully in Phase II of the Census Bureau's Block Boundary Program. The data base used to construct the congressional redistricting plan ultimately adopted was and is inherently suspect and subject to arbitrary political manipulation. Upon information and belief, these shortcomings may have resulted in the inaccurate analysis of the composition of the districts created.

63. Legislation purportedly designed to redistrict the State of North Carolina's congressional districts was originally passed by the General Assembly as Chapter 601 of the North Carolina Session Laws of 1991, on July 9, 1991. See Exhibit 1.

64. The proposed congressional redistricting plan contained one majority black congressional district drawn in the northeast region of the state. The shape of the proposed district was unusually convoluted in order to protect white Democratic incumbent Congressmen at the expense of Republican voters and minorities.

65. Because portions of the State of North Carolina are subject to the preclearance procedures of section 5 of the Voting Rights Act of 1965, as amended, this legislation was unenforceable unless the Attorney General of the United States failed to object to the legislation within the statutory time frame.

66. Following its enactment, Chapter 601 was submitted by the State of North Carolina to the United States Department of Justice ("USDOJ") for preclearance.

67. On December 18, 1991, the USDOJ objected to the proposed congressional redistricting, noting that the state had failed to demonstrate that the failure to create a second minority district in the southeastern portion of North Carolina did not impermissibly submerge minority voting strength. The Department of Justice also noted that the unusually convoluted shape of the single minority district proposed by the state was not necessary to create a minority district. See Exhibit 2.

68. The General Assembly of North Carolina responded to this objection by enacting, in special session, Chapter 7 (1991 Extra Session) (hereinafter "Chapter 7"), which provides for the redistricting of congressional districts and an increase from eleven to twelve congressional districts. See Exhibits 3 and 4. On January 24, 1992, Chapter 7 was passed, on a party-line vote by overwhelming Democratic

majorities in both houses of the State legislature, after only 1 day of deliberation. Other more reasonable and compact alternatives offered by either Republicans or non-partisan interested persons or groups were rejected by the Democratic majority in the General Assembly. This plan was submitted to the Department of Justice on January 28, 1992. On February 6, 1992, the Department of Justice failed to object to Chapter 7. See Exhibit 5. Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin enforcement of Chapter 7.

69. Chapter 7 amends Chapter 163, article 17 of the North Carolina General Statutes. A copy of Chapter 7 and a map reflecting the Congressional Districts embodied therein are attached hereto as Exhibits 3 and 4.

70. Pursuant to N.C.Gen.Stat. § 163-22, the State Board of Elections has general supervisory power over the primaries and elections in the State, with authority to promulgate rules and regulations for the conduct of elections in North Carolina.

71. Pursuant to N.C.Gen.Stat. § 163-104, the State Board of Elections may, by rule, modify the election law time schedule.

72. Pursuant to N.C.Gen.Stat. § 163-106, as amended specifically for the 1992 election cycle, notices of candidacy for election to the United States House of Representatives must be filed with the State Board of Elections no later than March 2, 1992.

FIRST CAUSE OF ACTION:
FAIR AND EFFECTIVE REPRESENTATION UNDER THE FOURTEENTH AMENDMENT WITHOUT REGARD TO RACE OR POLITICAL AFFILIATION

73. This case arises under section I of the Fourteenth Amendment to the Constitution of the United States, which provides that:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

74. This provision of the Constitution of the United States guarantees to the citizens of the State of North Carolina the right to vote in congressional elections, and requires that the vote of each citizen be equally effective and be worth as much as any other vote cast in such elections.

75. Plaintiffs, as citizens of the United States and as citizens and registered and qualified voters of the State of North Carolina, are entitled to vote for members of the United States House of Representatives and to cast votes that are as equally effective as the votes of every other citizen of the State of North Carolina.

76. The General Assembly's purpose in enacting Chapter 7 was to create two districts in which black voters could elect two candidates of their choice without risking the reelection chances of white incumbent Democratic Congressmen. A secondary purpose was to further dilute the influence of Republican voters state-wide by packing them into the Sixth and Tenth Congressional Districts, thereby conceding to the Republican Party the reelection of the Honorable Howard Coble and the Honorable Cass Ballenger to those seats. Republican voters were simultaneously gerrymandered from the Eleventh District, thereby jeopardizing the reelection chances of the Honorable Charles Taylor, the Republican incumbent for that district.

77. In order to achieve its goals, the General Assembly adopted Chapter 7 at the request of one or more incumbent Democratic Congressmen or their staff or agents. The

districts established by Chapter 7 contain grossly contorted shapes with no logical explanation other than incumbency protection and the enhancement of Democratic partisan interests. Alternative configurations that would better protect the rights of all citizens of North Carolina, including but not limited to a plan prepared by the North Carolina League of Women Voters, were available to the General Assembly and were rejected. The plan adopted by the General Assembly ignores the directive of the USDOJ to create a minority district in the southeastern portion of North Carolina since any such district would jeopardize the re-election of the Honorable Charles Rose, the Democratic incumbent in the Seventh Congressional District.

78. An example of the grossly contorted districts is the proposed Twelfth Congressional District ("Twelfth District"), which serves as the linchpin to the General Assembly's redistricting plan. The Twelfth District is one of two districts in which the General Assembly intended that black voters would be able to elect a candidate of their choice since blacks comprise fifty-six percent (56%) of the population in the Twelfth District.

79. The Twelfth District is approximately 160 miles long and winds through Alamance, Davidson, Durham, Forsyth, Gaston, Guilford, Iredell, Mecklenburg, Orange and Rowan Counties. For much of its length, it snakes along the Interstate 85 ("I-85") corridor that links Durham, Greensboro, and Charlotte. Upon information and belief, for some of its length, District 12 is no wider than the I-85 corridor; in Davidson County, northbound drivers on I-85 will be in the Twelfth District while southbound drivers will be in the Sixth Congressional District; in neighboring Guilford County, the Congressional District will "change lanes" with southbound drivers finding themselves in the Twelfth District and northbound drivers in the Sixth District; and in Gaston County, the Twelfth District is contiguous only because it runs along a railroad right-of-way created between a railroad and a highway. The Twelfth District com-

pletely diverges from any reasonable standard of compactness or communities of interest.

80. The manner in which the General Assembly has drawn the Twelfth Congressional District has had the result of splitting numerous communities into different Congressional Districts. For example, portions of five counties in the Twelfth Congressional District, Forsyth, Guilford, Iredell, Mecklenburg, and Rowan, have split into *three* separate Congressional Districts. Similarly, the town of Davidson and the city of Charlotte have been split into three separate Congressional Districts.

81. In order to accomplish the blatantly partisan goals of the Democratic Party, the General Assembly even elected to split fifty (50) *precincts* along the I-85 corridor into at least two different Congressional Districts. In Iredell County, residents of the Chambersburg Precinct have been split into *three* different Congressional Districts (Eighth, Tenth, and Twelfth).

82. Other communities were split by the General Assembly as a result of its plan to protect Congressman Rose in the creation of the First Congressional District which purports to serve as the state's second minority district. Blacks comprise 57.26% of the total population in the First District. The lines of the First District split nineteen counties, four townships, and twenty-three precincts. Upon information and belief, portions of two precincts are included in the First District in which no people reside in order to purport to make the district contiguous.

83. The contorted shapes of the districts created by Chapter 7 limit, if not exclude, the opportunity for physical access of constituents to their Congressmen to obtain assistance on personal matters and to express their opinions on current issues and make it more difficult, if not impossible, for a Congressman to represent effectively a district with numerous, disparate and conflicting local and regional community interests.

84. The bizarre and irregular district configurations embodied in Chapter 7 have pernicious effects in and of themselves by causing voter confusion about the identity of their Congressmen and any challengers and resulting voter apathy. For example, the Twelfth District encompasses the three most expensive media markets in the state, Charlotte, Greensboro, and Raleigh-Durham. Candidates in the Twelfth District, in order to achieve name recognition, will face the prohibitive expense of advertising in at least six major daily newspapers, numerous daily newspapers published in smaller communities, and three different television markets. The result will make it difficult, if not impossible, to recruit effective challengers to entrenched incumbents or for qualified candidates to mount effective campaigns.

85. The Twelfth District and other districts established by Chapter 7 were created with the specific intent of giving an enormous advantage to Democratic incumbents by increasing the difficulty and expense of campaigning, thereby enhancing the advantage enjoyed by certain incumbents who have the benefit of franking privileges, contributions from political action committees, public identification and ready access to news media.

86. The Fourteenth Amendment's guarantee of fair and effective representation is arbitrarily denied by the challenged congressional redistricting scheme which fractures identifiable and cognizable communities of interest in North Carolina, thereby diluting their ability to achieve effective representation, participation in or the promotion of legislative objectives in their behalf.

87. The redistricting scheme embodied in Chapter 7 will abridge or dilute plaintiffs' ability to cast an effective vote in congressional elections, because the logistics and cost of campaigning in many of the challenged congressional districts will be prohibitive.

88. Elections held under the challenged scheme will allow those elected to either ignore the interests of the citizens of these fractured communities of interest without fear of political consequences, or will prevent those elected from effectively representing those citizens because of the lack of a cohesive constituency.

89. The failure of the General Assembly to adopt an equipopulous congressional redistricting plan with more compact districts violates the rights of those citizens living in fractured communities of interest to exercise their elective franchise and to participate on an equal basis with those living in communities which have not been fractured by the General Assembly for illegitimate purposes.

90. The due process clause of the Fourteenth Amendment protects plaintiffs' right to vote from being arbitrarily or capriciously denied or abridged. The General Assembly of North Carolina, through its arbitrary use of contorted congressional districts, has abridged and diluted plaintiffs' rights.

91. This denial and abridgment of plaintiffs' constitutional rights has occurred because Chapter 7 serves primarily to further the interests of white incumbent Democratic Congressmen in avoiding competitive elections at the expense of the rights of those citizens living in the disfavored geographic locations.

92. The Voting Rights Act was intended to protect existing and cohesive black communities from being submerged into larger white districts or fractured into different white districts. The Act was not intended to grant license to either political party to arbitrarily "invent" purported black communities that are separated by hundreds of miles in order to achieve partisan political advantage.

93. Given the convoluted districts established by Chapter 7 and their impact on the constitutional rights of all voters throughout the State of North Carolina, and in light

of other reasonable alternatives available to fully protect the rights of minorities and minority communities under the Voting Rights Act, the Congressional Districts established by Chapter 7 are not authorized or required by the Voting Rights Act and deprive plaintiffs of their rights under the equal protection and due process clauses of the Fourteenth Amendment.

94. Plaintiffs' constitutional rights will be irreparably harmed absent preliminary and permanent injunctive relief preventing the enforcement of Chapter 7 and requiring the creation of constitutionally acceptable Congressional Districts. The relief sought by plaintiff does not conflict with any legitimate state goal or interest. North Carolina's congressional districts can be re-drawn easily and quickly to comport with one person, one vote requirements and to provide an equal or greater level of minority representation than exists under Chapter 7, while at the same time providing for fair and effective representation for all North Carolina citizens and voters.

SECOND CAUSE OF ACTION:
ARTICLE I, SECTION 2

95. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 94 as if fully set forth herein.

96. This case also arises under article I § 2 of the Constitution of the United States, which provides in pertinent part, that Members of the House of Representatives must be chosen "by the People of the several states," thereby requiring that each person is entitled to an equal, fair and effective vote in a congressional election.

97. This provision of the Constitution of the United States guarantees to the citizens of the State of North Carolina the right to vote in congressional elections, and requires that the vote of each citizen be equally effective

and be worth as much as any other vote cast in such elections.

98. Chapter 7 is an illegitimate and unjustifiable infringement of plaintiffs' constitutional rights under Article 1, Section 2 of the Constitution of the United States.

THIRD CAUSE OF ACTION:
FREEDOM OF ASSOCIATION

99. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 98 inclusive as if fully set forth herein. Plaintiffs do not believe they are required to prove illegitimate intent under this cause of action, but reserve the right to offer such proof if so required by the Court.

100. This case also arises under the First Amendment to the Constitution of the United States, as incorporated in the Fourteenth Amendment. The First Amendment protects the exercise of the fundamental rights of freedom of speech and association.

101. Chapter 7 violates plaintiffs' First Amendment freedoms by arbitrarily and invidiously discriminating against certain identifiable and cognizable groups of voters and communities of interest solely because of geographic location or partisan affiliation, and by chilling public debate on issues of public importance.

102. By fracturing identifiable and cognizable communities of interest to enhance the political fortunes of certain incumbents, Chapter 7 directly burdens plaintiffs' rights to freely associate for legitimate political purposes, and to cast their votes effectively.

103. This illegitimate and discriminatory use of contorted congressional district configurations results in identifiable and cognizable groups of voters and communities of interest—either because of their geographic location or

their partisan affiliation—having less opportunity to participate in the political process and to elect candidates of their choice, and to elect candidates who are responsive to their associational interests.

104. No legitimate state interest supports the General Assembly's configuration of these districts, and any proffered justifications are applied inconsistently and arbitrarily.

FOURTH CAUSE OF ACTION: FIRST AMENDMENT RIGHT OF PETITION

105. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 104 as if fully set forth herein.

106. This case also arises under the First Amendment's guarantee of the right to petition the government for redress of grievances, as incorporated in the Fourteenth Amendment.

107. The challenged congressional redistricting scheme arbitrarily abridges plaintiffs' rights, as members of identifiable and cognizable geographic, jurisdictional and political communities of interest, both individually and collectively, to petition the government through their elected representatives in Congress.

108. Plaintiffs are members of the geographic, jurisdictional and political communities to which they belong, and in their associated capacity, seek and will seek to promote debate and legislation for the promotion of their general welfare and the protection of their individual as well as their collective rights. The challenged congressional redistricting scheme impermissibly and arbitrarily abridges plaintiffs' ability to seek such action solely because of their geographic location or partisan affiliation.

109. This abridgement of plaintiffs' rights of petition occurs because plaintiffs' ability to band together with oth-

ers in their communities of interest is impossible because their communities have been arbitrarily fractured.

110. Chapter 7 impermissibly interferes with and dilutes the rights of plaintiffs as members of certain identifiable and cognizable geographic, jurisdictional and political communities of interest to communicate with each other on important issues of public policy, and to associate with each other in the expression and advocacy of opinions on those issues to their elected representatives.

FIFTH CAUSE OF ACTION: PRIVILEGES AND IMMUNITIES CLAUSE

111. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 110 as if fully set forth herein.

112. This case also arises under section 1 of the Fourteenth Amendment to the Constitution of the United States, the privileges and immunities clause.

113. Plaintiffs' rights as electors, qualified under the laws of the State of North Carolina to full, fair and effective representation in the United States House of Representatives, is a privilege and immunity of national citizenship secured against invasion by the State of North Carolina.

114. The right to an effective vote for members of the United States House of Representatives is created by the Constitution of the United States, article I, § 2. This right securing to each citizen a full measure of congressional representation extends not only to protect against deprivations which may occur within a single state but also those which occur among the several states.

115. The contorted district configurations embodied in Chapter 7 are so unusual and egregious as to place plaintiffs, as members of identifiable and cognizable geo-

graphic, jurisdictional and political communities of interest, in an electoral disadvantage not suffered by citizens and voters in other states.

WHEREFORE, plaintiffs respectfully pray:

1. that the United States District Court Judge to whom this case is initially assigned immediately notify the Chief Judge of the United States Court of Appeals for the Fourth Circuit so that appropriate judges may be designated to hear this matter;

2. that the Court enter a temporary restraining order and preliminary injunction extending the deadline for filing notices of candidacy for election to the United States House of Representatives from the State of North Carolina from March 2, 1992, to such time as is necessary to effect relief;

3. that the Court enter an order providing for a schedule to hear and decide this case in the most expeditious manner practicable;

4. that the Court declare Chapter 7 is now and prospectively in violation of the Constitution and statutes of the United States and is now and prospectively null and void and of no further force and effect insofar as it purports to establish congressional districts for the State of North Carolina;

5. that the Court preliminarily and permanently enjoin the defendant State Board of Elections, and the members thereof, from ordering or conducting any electoral processes under Chapter 7, from certifying the results of any such processes or elections, and from taking any other steps with respect to the election of members of the United States House of Representatives, until there has been a further redistricting of congressional districts which complies with the Constitution and laws of the United States;

6. that the Court order appropriate remedies, which could include solicitation and review of proposed legislative

redistricting plans from interested parties, promulgation of new legislative redistricting plans by appointment of Special Masters, requiring the General Assembly to formulate and pass a new redistricting plan which meets constitutional muster under a timetable set by the Court, or other remedies as the Court deems appropriate;

7. that the Court retain jurisdiction of this action until such time as a congressional redistricting plan is promulgated in accordance with constitutional and statutory requirements;

8. that the Court award plaintiffs their costs and reasonable attorney's fees; and

9. that the Court enter such other and further relief as may, to the Court, seem just and proper.

Respectfully submitted, this the 28th day of February, 1992.

MAUPIN TAYLOR ELLIS & ADAMS, P.A.

BY: /s/ Thomas F. Ellis
Thomas F. Ellis

BY: /s/ Thomas A. Farr
Thomas A. Farr

BY: /s/ Sean Callinicos
Sean Callinicos

Attorneys for Plaintiffs
3200 Beechleaf Court, Suite 500
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Raleigh, North Carolina 27619-9764
Telephone: (919) 981-4000

NORTH CAROLINA
MECKLENBURG COUNTY

James Arthur "Art" Pope, being first duly sworn, deposes and says:

that he is a plaintiff in this action; that he has read the foregoing Complaint and knows the contents thereof; that the Complaint was prepared with the advice and assistance of counsel on which he relied; that the allegations in the Complaint are true either of his personal knowledge or, in those instances where allegations were made upon information and belief, are true to the best of his knowledge, information and belief.

_____
James Arthur "Art" Pope

Sworn to and subscribed
before me this 28th
day of February, 1992.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT 1

U.S. Department of Justice
Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20085*

Tiare B. Smiley, Esq.
Special Deputy Attorney General
P.O. Box 629
Raleigh, North Carolina 27602-0629

DEC 18 1991

Dear Ms. Smiley:

This refers to Chapter 675 (1991), which provides for the 1991 redistricting and a change in the method of election from 42 single-member districts and 30 multimember districts to 75 single-member districts and 20 multimember districts for the House of Representatives; Chapter 676 (1991), which provides for the 1991 redistricting plan and a change in the method of election from 22 single-member districts and 28 multimember districts to 34 single-member districts and 8 multimember districts for the Senate; and Chapter 601 and Chapter 761 (1991), which provide for the increase from eleven to twelve congressional districts and the 1991 redistricting plan for the congressional districts for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your response to our request for more information on November 5, 1991; supplemental information was received on November 18, 20, 21, 25, 26 and 27, and December 4, 10, 12 and 13, 1991.

We have carefully considered the information you have provided, as well as Census data and information and comments from other interested persons. At the outset, we note that 40 of North Carolina's 100 counties are covered under the special provisions of Section 5 of the Voting

Rights Act. As it applies to the redistricting process, the Voting Rights Act requires the Attorney General to determine whether the submitting authority has sustained its burden of showing that each of the legislative choices made under a proposed plan is free of racially discriminatory purposes or retrogressive effect and that the submitted plan will not result in a clear violation of Section 2 of the Act. In the case of statewide redistrictings such as the instant ones, this examination requires us not only to review the overall impact of the plan on minority voters, but also to understand the reasons for and the impact of each of the legislative choices that were made in arriving at a particular plan.

In making these judgments, we apply the legal rules and precedents established by the federal courts and our published administrative guidelines. See, e.g., 28 C.F.R. 51.52(a), 51.55, 51.56. For example, we cannot preclear those portions of a plan where the legislature has deferred to the interests of incumbents while refusing to accommodate the community of interest shared by insular minorities, see, e.g., *Garza* v. *Los Angeles County,* 918 F.2d 763, 771 (9th Cir. 1990), *cert. denied,* 111 S. Ct. 681 (1991), *Ketchum* v. *Byrne,* 740 F.2d 1398, 1408-09 (7th Cir. 1984), *cert. denied,* 471 U.S. 1135 (1985), or where the proposed plan, given the demographics and racial concentrations in the jurisdiction, does not fairly reflect minority voting strength. *Thornburg* v. *Gingles,* 478 U.S. 30 (1986); *Hastert* v. *State Board of elections,* ___ F. Supp. ___ (N.D. Ill., Nov. 6, 1991), 1991 WL 228185; *Wiles County, Georgia* v. *United States,* 450 F. Supp. 1171, 1176 (D.D.C. 1978), *aff'd. mem.,* 439 U.S. 999 (1978).

Such concerns are frequently related to the unnecessary fragmentation of minority communities or the needless packing of minority constituents into a minimal number of districts in which they can expect to elect candidates of their choice. See 28 C.F.R. 51.59. We endeavor to evaluate these issues in the context of the demographic changes

which compelled the particular jurisdiction's need to redistrict and the options available to the legislature. Finally, our entire review is guided by the principle that the Act ensures fair election opportunities and does not require that any jurisdiction guarantee minority voters racial or ethnic proportional results.

With this background in mind, our analysis shows that, in large part, the North Carolina House, Senate and Congressional redistricting plans meet the Section 5 preclearance requirements. Each plan, however, has particular problems which raise various concerns for us under the Voting Rights Act. We describe each of these problem areas separately below.

Respecting the House plan, the proposed configuration of district boundary lines in the following three areas of the state appear to minimize black voting strength: the Southeast area, involving Sampson, Pender, Bladen, Duplin, New Hanover, Wayne, Lenoir and Jones Counties; the Northeast area in which the state proposes to create District 8; and Guilford County.

In general, it appears that in each of these areas the state does not propose to give effect to overall black voting strength even though it seems that boundary lines logically could be drawn to recognize black population concentrations in each area in a manner that would more effectively provide to black voters an equal opportunity to participate in the political process and to elect candidates of their choice. Another factor which appears to adversely impact on minority voting strength, by limiting the number of majority minority districts, was the state's decision to manipulate black concentrations in a way calculated to protect white incumbents.

In the Southeast area of the state, the state was aware of the significant interest on the part of the black community in creating districts in which they would constitute a majority. In fact, alternatives providing for two addi-

tional black majority districts were presented to the legislature. Rather than using this approach to recognize black Voting strength, however, the proposed plan submerges concentrations of black voters in several multimember, white majority districts. Our own analysis suggests that a number of different boundary line configurations may be possible which more fairly recognize black population concentrations and provide minority voters an opportunity to elect candidates of their choice in at least one additional district.

In the Northeastern portion of the state, District 8 seems to have been drawn in such a way as to limit unnecessarily the potential for black voters to elect representatives of their choice. In spite of the 58 percent black population majority serious concerns have been raised as to whether black voters in this district will have an equal opportunity to elect their preferred candidate, particularly given the fact that only 52 percent of the registered voters in the district are black. Our analysis indicates that a number of different options are available to draw District 8 in a manner which provides blacks an equal opportunity to participate in the electoral process (e.g., including in District 8 black concentrations in adjoining districts).

Similarly, in Guilford County, the proposed plan fails to recognize black population concentrations, although reasonable configurations of boundary lines would permit an additional district that would provide black voters the opportunity to elect their candidates of choice. While we have noted the state's assertion that the division of the black community in Guilford County into several districts enhances black voting strength by providing black voters an opportunity to influence elections in additional districts, it appears that the plan in fact was designed to ensure the re-election of white incumbents. This conclusion is bolstered by what appears to be similarly motivated decisions of the legislature involving other areas of the state, such as in Mecklenburg County. There, the state drew two mi-

nority House districts, while the minority population appears to be sufficiently concentrated to allow for the drawing of three districts in which black voters would have an opportunity to elect candidates of their choice. While we are aware that Mecklenburg is not a county subject to the preclearance requirements of Section 5, information regarding the choices of boundary line changes in the county is relevant to our review of the concern that purposeful choices were made throughout the redistricting process that adversely impact minority voting strength.

Respecting the Senate redistricting plan, the state has proposed district boundary lines in the southeast region of the state that appear to minimize black voting strength, given the particular demography of this area. Although boundary lines logically could be drawn to recognize black population concentrations in a manner that would more effectively provide to black voters an equal opportunity to participate in the political process and to elect a candidate of their choice, the proposed districts seem to be the result of the state's decision to use concentrations of black voters in white majority districts to protect white incumbents. Black citizens from this area testified that they felt a black majority single-member district could be fairly drawn, and alternatives providing for a black majority district were presented to the legislature. It appears, however, that concentrations of black voters have been submerged in several white majority districts. Our own analysis suggests that a number of different boundary line configurations may be possible which more fairly recognize black population concentrations and provide minority voters an opportunity to elect candidates of their choice in at least one additional district.

Respecting the congressional redistricting plan, we note that North Carolina has gained one additional congressional seat because of an increase in the state's population. The proposed congressional plan contains one majority black congressional district drawn in the northeast region

of the state. The unusually convoluted shape of that district does not appear to have been necessary to create a majority black district and, indeed, at least one alternative configuration was available that would have been more compact. Nonetheless, we have concluded that the irregular configuration of that district did not have the purpose or effect of minimizing minority voting strength in that region.

As in the House and Senate plans, however, the proposed configuration of the district boundary lines in the south-central to southeastern part of the state appear to minimize minority voting strength given the significant minority population in this area of the state. In general, it appears that the state chose not to give effect to black and Native American voting strength in this area, even though it seems that boundary lines that were no more irregular than found elsewhere in the proposed plan could have been drawn to recognize such minority concentration in this part of the state. *Jeffers* v. *Clinton*, 730 F.Supp. 196, 207 (E.D. Ark. 1989), *affirmed*, 111 S. Ct. 662 (1991).

We also note that the state was well aware of the significant interest n the part of the minority community in creating a second majority-minority congressional district in North Carolina. For the south-central to southeast area, there were several plans drawn providing for a second majority-minority congressional district, including at least one alternative presented to the legislature. No alternative plan providing for a second majority-minority congressional district was presented by the state to the public for comment. Nonetheless, significant support for such an alternative has been expressed by the National Association for the Advancement of Colored People (NAACP) and the American Civil Liberties Union (ACLU). These alternatives, and other variations identified in our analysis, appear to provide the minority community with an opportunity to elect a second member of congress of their choice to office, but, despite this fact, such configuration

for a second majority-minority congressional district was dismissed for what appears to be pretextual reasons. Indeed, some commenters have alleged that the state's decision to place the concentrations of minority voters in the southern part of the state into white majority districts attempts to ensure the election of white incumbents while minimizing minority electoral strength. Such submergence will have the expected result of "minimiz[ing] or cancel[ling] out the voting strength of [black and Native American minority voters]." *Fortson* v. *Dorsey*, 379 U.S. 433, 439 (1965). Although invited to do so, the state has yet to provide convincing evidence to the contrary.

In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the state's burden has been sustained in this instance with respect to the three proposed plans under review. Therefore, on behalf of the Attorney General, I must object to the 1991 redistricting for the North Carolina State House, Senate and Congressional plans to the extent that each incorporates the proposed configurations for the areas discussed above.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed 1991 House, Senate and Congressional redistricting plans have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, you may request that the Attorney General reconsider the objections. However, until the objections are withdrawn or a judgment from the District of Columbia Court is obtained, the 1991 redistrictings for the North Carolina House, Senate and Congressional plans continue to be legally unenforceable. *Clark* v. *Roemer*, 59 U.S.L.W. 4583 (U.S. June 3, 1991), 38 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the State

of North Carolina plans to take concerning these matters. If you have any questions, you should call Richard Jerome (202-514-8696), an attorney in the Voting Section.

Sincerely,

/s/ John R. Dunne
John R. Dunne
Assistant Attorney General
Civil Rights Division

EXHIBIT 2

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1991
RATIFIED BILL

CHAPTER 7
HOUSE BILL 3

AN ACT TO DIVIDE NORTH CAROLINA INTO TWELVE CONGRESSIONAL DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-201 reads as rewritten:

"**§ 163-201. Congressional districts specified.**

(a) For the purpose of nominating and electing members of the House of Representatives of the Congress of the United States in ~~1982~~ 1992 and every two years thereafter, the State of North Carolina shall be divided into ~~11~~ 12 districts as follows:

~~FIRST DISTRICT: Beaufort, Bertie, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Greene, Hertford, Hyde, Lenoir, Martin, Northhampton, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, and Washington Counties.~~

~~SECOND DISTRICT: Caswell, Durham, Edgecombe, Granville, Halifax, Nash, Person, Vance, Warren, and Wilson Counties; and the O'Neals Township in Johnston County.~~

~~THIRD DISTRICT: Bladen, Duplin, Harnett, Jones, Lee, Onslow, Pender, Sampson, and Wayne Counties; the following townships of Johnston County: Banner, Bentonsville, Beulah, Boon Hill, Clayton, Cleveland, Elevation, Ingrams, Meadow, Micro, Pine Level, Pleasant Grove, Selma, Smithfield, Wilders, and Wilson Mills; and the following townships of Moore County: 1 (Carthage), 4 (Rittors), 5 (Deep River), 6 (Greenwood), and 10 (Little River).~~

~~FOURTH DISTRICT: Chatham, Franklin, Orange, Randolph, and Wake Counties.~~

~~FIFTH DISTRICT: Alexander, Alleghany, Ashe, Forsyth, Rockingham, Stokes, Surry, and Wilkes Counties.~~

~~SIXTH DISTRICT: Alamance, Davidson, and Guilford Counties.~~

~~SEVENTH DISTRICT: Brunswick, Columbus, Cumberland, New Hanover, and Robeson Counties.~~

~~EIGHTH DISTRICT: Anson, Cabarrus, Davie, Hoke, Montgomery, Richmond, Rowan, Scotland, Stanly, and Union Counties; and the following townships of Moore County: 2 (Bensalem), 3 (Sheffields), 7 (McNeills), 8 (Sand Hill), and 9 (Mineral Springs); and the following townships of Yadkin County: Boonville, East Bend, Fall Creek, Forbush, Knobs, and Liberty.~~

~~NINTH DISTRICT: Iredell, Lincoln, and Mecklenburg Counties; and the following townships of Yadkin County: Buck Shoal and Deep Creek.~~

~~TENTH DISTRICT: Burke, Caldwell, Catawba, Cleveland, Gaston, and Watauga Counties; and the following townships of Avery County: Banner Elk, Beech Mountain, Cranberry, Linville, and Wilsons Creek.~~

~~ELEVENTH DISTRICT: Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties; and the following townships of Avery County: Altamont, Roaring Creek, and Toe River.~~

District 1: Beaufort County: Chocowinity township, Richland township, Washington township: Tract 9903, Tract 9904; Bertie County, Bladen County: Abbotts township: Tract 9504: Block Group 5: Block 546A; Tract 9506: Block Group 5: Block 508A; Block Group 7: Block 701, Block 702A, Block 703A, Block 703B, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block

712, Block 713, Block 714, Block 715, Block 716, Block 717, Block 718, Block 719A, Block 720A, Block 720B, Block 721, Block 722, Block 723A, Block 724A, Block 725, Block 726, Block 727, Block 728A, Block 729, Block 730, Block 731, Block 732, Block 733, Block 734, Block 735, Block 736, Block 737, Block 738, Block 739, Block 740, Block 741, Block 742, Block 743, Block 744, Block 745, Block 746, Block 747A, Block 748, Block 749, Block 750, Block 751A, Block 752A, Block 753A, Block 754A, Block 759A, Block 760, Block 783, Block 784, Block 785, Block 786A; Brown Marsh township, Carvers Creek township, Central township, Elizabethtown township, Frenchs Creek township, Lake Creek township, Turnbull township, White Oak township, Whites Creek township; Chowan County, Columbus County: Bolton township, Chadbourn township: Tract 9905: Block Group 4: Block 415A, Block 416A, Block 417A, Block 424A, Block 425A, Block 426, Block 427, Block 428A, Block 429, Block 430, Block 431, Block 432; Tract 9907: Block Group 1: Block 103A, Block 105A, Block 106A, Block 107A, Block 108A, Block 109, Block 110A, Block 110B, Block 111, Block 112, Block 113, Block 114, Block 115, Block 119, Block 120A, Block 121, Block 122, Block 123; Block Group 2: Block 210A, Block 210B, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 230, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239; Block Group 4: Block 410A, Block 410B, Block 411A, Block 411B, Block 412, Block 413, Block 414, Block 415, Block 416A, Block 416B, Block 417; Block Group 5: Block 501A, Block 502A, Block 503A, Block 508B, Block 508C, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516B, Block 517B, Block 520; Tract 9909: Block Group 6: Block 606A, Block 607A, Block 608, Block 612, Block 613, Block 614, Block 615A; Ransom township, Welch Creek township, Western Prong township, Whiteville township: Tract 9907: Block Group 1: Block 120B; Tract 9908: Block Group 1: Block 118, Block

121; Block Group 2: Block 206A, Block 206B, Block 210; Block Group 3: Block 302, Block 303, Block 307, Block 308, Block 309, Block 310, Block 311A, Block 311B, Block 312, Block 313A, Block 313B, Block 313C, Block 314, Block 315A, Block 315B, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330; Block Group 4: Block 401, Block 402, Block 403, Block 404A, Block 404B, Block 404C, Block 407, Block 408, Block 409A, Block 409B, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417; Tract 9909: Block Group 1: Block 101A, Block 101B, Block 102A, Block 102B, Block 102C, Block 102D, Block 103, Block 107, Block 121A, Block 121B, Block 121C, Block 122; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305, Block 306, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351, Block 352A, Block 352B, Block 353, Block 354, Block 355, Block 356; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408A, Block 408B, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420A, Block 420B, Block 421A, Block 421B, Block 422, Block 423B, Block 427, Block 428, Block 429; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507A, Block 507B, Block 507C, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 525, Block 526; Block Group 6: Block 601A,

Block 601B, Block 602, Block 603, Block 604, Block 605, Block 606B, Block 607B, Block 615B, Block 616, Block 619, Block 620B; Tract 9910: Block Group 1: Block 101A, Block 101B, Block 101D, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108A, Block 108B, Block 108C, Block 108D, Block 109, Block 110A, Block 110B, Block 110C, Block 110D, Block 111, Block 112, Block 113A, Block 113B, Block 113C, Block 114, Block 115A, Block 115B, Block 116A, Block 116B, Block 117, Block 118A, Block 118B, Block 118C, Block 119A, Block 119B, Block 120, Block 121A, Block 121B, Block 122A, Block 122B, Block 123A, Block 123B, Block 123C, Block 124, Block 125A, Block 125B, Block 126A, Block 126B, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132A; Craven County: Cove City *, Dover *, Fort Barnwell *, Harlowe *, Croatan *: Tract 9610: Block Group 7: Block 711, Block 712, Block 714, Block 715, Block 716, Block 717, Block 718, Block 719, Block 720, Block 721, Block 722, Block 723, Block 724, Block 725, Block 726, Block 727, Block 728, Block 729, Block 730, Block 731, Block 732, Block 733, Block 734, Block 735, Block 736, Block 737, Block 738, Block 739, Block 740, Block 741, Block 742, Block 743, Block 744, Block 745, Block 746, Block 747, Block 748, Block 749, Block 750, Block 751, Block 752, Block 753, Block 754, Block 755; Tract 9611: Block Group 1: Block 116; Block Group 2: Block 202, Block 203, Block 204, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 223, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 289, Block 290; Havelock *: Tract 9611: Block Group 2: Block 249, Block 250, Block 283, Block 284, Block 285, Block 286, Block 287, Block 288, Block 291, Block 292, Block 293, Block 294, Block 295, Block 296, Block 297; Tract 9613: Block Group 2: Block 219A, Block 219B, Block 222, Block 223; Block Group 3: Block 323B, Block 324, Block

325, Block 326, Block 327, Block 328, Block 329; Block Group 5: Block 503G, Block 525B; First Ward *, Second Ward *, Third Ward *, Fourth Ward *, Fifth Ward *, Clarks *, Rhems *: Tract 9604: Block Group 5: Block 516, Block 517, Block 518, Block 521D, Block 530B, Block 531C, Block 533, Block 534, Block 535, Block 536, Block 537, Block 538, Block 539, Block 540, Block 541, Block 542, Block 543, Block 544, Block 545, Block 546, Block 547A, Block 547B, Block 548, Block 549, Block 550, Block 556, Block 558, Block 559, Block 560, Block 561, Block 562B, Block 563, Block 564, Block 565, Block 566, Block 567, Block 568, Block 569, Block 570, Block 571, Block 572; Block Group 7: Block 701, Block 702, Block 711B, Block 712B, Block 738B, Block 739, Block 740, Block 741, Block 742, Block 743; Jasper *; Cumberland County: Beaver Dam *: Tract 0029: Block Group 1: Block 116; Block Group 2: Block 222A, Block 224A, Block 225A, Block 226A, Block 227A, Block 228A, Block 229, Block 230, Block 231, Block 232, Block 233A, Block 234A, Block 235, Block 236, Block 237, Block 238A, Block 239A, Block 250, Block 251A, Block 252A, Block 253, Block 254, Block 255, Block 256, Block 257, Block 258, Block 259, Block 260, Block 261, Block 262, Block 263, Block 264, Block 265, Block 266; Block Group 3: Block 311, Block 336; Cedar Creek *, Cross Creek #1 *, Cross Creek #3 *, Cross Creek #5 *, Cross Creek #9 *; Tract 0012; Block Group 2: Block 203; Tract 0024: Block Group 9: Block 901A, Block 902, Block 903, Block 904, Block 905, Block 908, Block 909, Block 910, Block 911, Block 912, Block 913, Block 914; Tract 0025.01: Block Group 9: Block 911, Block 931, Block 933; Cross Creek #10 *, Cross Creek #13 *, Cross Creek #15 *; Tract 0004: Block Group 2: Block 231, Block 232; Tract 0006; Block Group 1: Block 133; Block Group 3: Block 301, Block 302, Block 304, Block 307, Block 308; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 413, Block 414, Block 415; Cross Creek #16 *, Cross Creek #17 *;

Tract 0010: Block Group 1, Block Group 3: Block 313, Block 314, Block 315, Block 316; Block Group 9; Tract 0011: Block Group 1: Block 102, Block 103, Block 104, Block 108, Block 109, Block 112, Block 113, Block 115, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 308, Block 309A, Block 309B, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Tract 0024: Block Group 1: Block 101B, Block 101C, Block 104, Block 105A, Block 105B, Block 106B, Block 107A, Block 107B, Block 108, Block 109, Block 110, Block 111, Block 115, Block 116, Block 117, Block 118, Block 138; Block Group 2: Block 201A, Block 201B, Block 202, Block 203, Block 204, Block 205, Block 206; Block Group 4: Block 406A; Block Group 5: Cross Creek #19 *, Sherwood *, Pearces Mill #3 *; Duplin County: Glisson *; Tract 9901: Block Group 2: Block 201, Block 202, Block 208, Block 209, Block 210, Block 211, Block 225, Block 227, Block 234, Block 235, Block 237, Block 257A, Block 257B; Charity *, Kenansville *, Magnolia *, Rockfish *, Warsaw *; Edgecombe County: Precinct 1-1 *, Precinct 1-2 *: Tract 0209: Block Group 2: Block 201, Block 202, Block 203, Block 204A, Block 204B, Block 205, Block 206, Block 207A, Block 207B, Block 208A, Block 208B, Block 211, Block 212, Block 213, Block 214, Block 215, Block 219, Block 224, Block 228, Block 229; Precinct 3-1 *, Precinct 4-1 *, Precinct 5-1 *, Precinct 6-1 *, Precinct 7-1 *, Precinct 12-1 *, Precinct 12-2 *, Precinct 12-3 *: Tract 0202: Block Group 5: Block 513B; Block Group 6: Block 614, Block 625; Tract 0204: Block Group 7: Block 702, Block 703B, Block 704B, Block 705, Block 706, Block 707, Block 708C, Block 709B, Block 710, Block 712, Block 713, Block 714, Block 721B, Block 722B; Precinct 12-4 *, Precinct 12-5 *; Gates County, Greene County, Halifax County: Hollister *: Tract 9906:O Block Group 3: Block 301A, Block 302A, Block 303B, Block 325A, Block 325B, Block 326A, Block 326B; Tract 9908: Block

Group 1: Block 113A, Block 113B, Block 127, Block 128, Block 134A, Block 134B, Block 135A, Block 138A, Block 138B, Block 139; Block Group 3: Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330; Block Group 4: Block 401, Block 402, Block 403, Block 417, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443, Block 444, Block 445, Block 446, Block 447, Block 448, Block 449, Block 450, Block 451; Ringwood *, Butterwood *, Tract 9907: Block Group 4: Block 411A, Block 412, Block 446A, Block 448, Block 449; Conoconnara *, Enfield #1 *, Enfield #2 *, Enfield #3 *, Faucett *: Tract 9905; Block Group 7: Block 707A, Block 715, Block 716; Tract 9906: Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 226, Block 227, Block 228, Block 236, Block 237, Block 240,, Block 241, Block 247, Block 248; Block Group 3: Block 310, Block 314, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325C, Block 326C, Block 326D, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333; Tract 9908: Block Group 2: Block 201C; Tract 9909: Block Group 1: Block 101B, Block 101C, Block 102C, Block 102D, Block 103B, Block 103C, Block 104A, Block 104B; Tract 9910: Block Group 1: Block 110, Block 111, Block 112, Block 113, Block 114; Halifax *, Littleton #1 *: Tract 9907: Block Group 2: Block 240, Block 241, Block 242, Block 256, Block 257, Block 258, Block 259, Block 260, Block 261, Block 262, Block 263, Block 264, Block 265, Block 266, Block 269, Block 270, Block 271; Block Group 3: Block 308, Block 309, Block 310, Block 311, Block 312, Block 313A, Block 313B, Block 314, Block 315, Block 316A,

Block 316B, Block 318, Block 320, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 344, Block 345, Block 346, Block 347, Block 348A, Block 348B, Block 349, Block 350, Block 351; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 407, Block 411B, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425A, Block 425B, Block 426A, Block 426B, Block 427, Block 428, Block 429A, Block 429B, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443, Block 444, Block 445, Block 446B, Block 447; Tract 9908: Block Group 1: Block 108; Hobgood *, Palmyra *, Roanoke Rapids #7 *, Roanoke Rapids #9 *: Tract 9905: Block Group 5: Block 509, Block 510, Block 511A, Block 511B, Block 512A, Block 512B, Block 513, Block 514, Block 515, Block 516, Block 517A, Block 519, Block 520A, Block 520B, Block 521A, Block 521B; Block Group 6: Block 601A, Block 601B, Block 602A, Block 602B, Block 602C, Block 603, Block 604A, Block 604B, Block 605, Block 606, Block 607A, Block 607B, Block 608, Block 609, Block 610A, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618,, Block 619, Block 620, Block 621, Block 622; Roseneath *, Scotland Neck #1 *, Scotland Neck #2 *, Weldon #1 *, Weldon #2 *, Weldon #3 *; Hertford County, Jones County: Pollocksville *, Trenton *; Lenoir County: Contentnea *, Kinston #1 *, Kinston #2 *, Kinston #6 *, Kinston #7 *, Kinston #8 *, Moseley Hall *, Trent #2 *: Tract 0112: Block Group 4: Block 406, Block 407, Block 410, Block 411, Block 412, Block 422, Block 423, Block 424, Block 425, Block 445, Block 449, Block 450; Vance *; Martin County: Goose Nest, Hassell, Hamilton, Poplar Point, Robersonville # 1, Robersonville # 2, Williamston # 1, Williamston # 2, VTD's not defined; Nash County: Griffins *: Tract 0108: Block Group 1: Block 166A, Block 167; Tract 0109: Block Group 1: Block 101, Block 102, Block 103, Block 110, Block 111,

Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153A, Block 153B, Block 156B, Block 156C, Block 157; Block Group 2: Block 206E, Block 206F, Block 207D; Block Group 3: Block 301, Block 302, Block 303A, Block 304; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438A, Block 438B, Block 439, Block 440A, Block 441, Block 445, Block 446, Block 447, Block 448, Block 449, Block 450, Block 451, Block 453, Block 454; No. Whitakers #1 *, No. Whitakers #2 *, Rocky Mount #3 *, Rocky Mount #4 *, Battleboro *; New Hanover County: Cape Fear #1 *: Tract 0115: Block Group 1: Block 141, Block 142, Block 143; Block Group 2: Block 209; Block Group 4: Block 401; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526, Block 527, Block 528, Block 529, Block 530, Block 531, Block 532, Block 533, Block 534, Block 535, Block 536, Block 537, Block 538, Block 539, Block 540, Block 541, Block 542, Block 543, Block 544, Block 545, Block 546, Block 547, Block 548, Block 549, Block 550, Block 551, Block 552, Block 553, Block 554, Block 555,

Block 556, Block 557, Block 558, Block 559; Wilmington #1 *, Wilmington #2 *, Wilmington #3 *, Wilmington #6 *,Wilmington #7 *, Wilmington #8 *: Tract 0110: Block Group 1: Block 102, Block 124, Block 129; Block Group 2: Block 201, Block 207, Block 208, Block 209, Block 210, Block 211, Block 213, Block 223; Block Group 3: Block 312, Block 313, Block 314, Block 318, Block 319, Block 322, Block 323; Wilmington #9 *: Tract 0103: Block Group 2: Block 208, Block 209, Block 210; Tract 0116.02: Block Group 4: Block 420A; Wilmington #10 *, Wilmington #15 *, Northampton County, Pasquotank County: Newland, Nixonton, Elizabeth City 1-A, Elizabeth City 3-A, Elizabeth City 3-B, Elizabeth City 4-A, Elizabeth City 4-B; Pender County: Canetuck *, Caswell *, Columbia * Grady *: Tract 9805: Block Group 1: Block 182B, Block 183B, Block 184B, Block 185, Block 186, Block 187, Block 188; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 408, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 419, Block 425, Block 426, Block 427, Block 428, Block 457, Block 468, Block 469, Block 470, Block 472, Block 484, Block 486, Block 487, Block 488, Block 489, Block 490, Block 491, Block 492, Block 495; Upper Holly *, Upper Union *; Perquimans County, Pitt County: Arthur *, Ayden East *, Belvoir *, Bethel *, Carolina *, Falkland *, Farmville West *, Farmville East *, Fountain *, Grifton *, Grimesland *, Pactolus *, Greenville #1 *, Greenville #2, Greenville #3 *, Greenville #4 *, Greenville #5 *, Greenville #6 *, Greenville #13 *, Greenville #2 Noncontiguous; Vance County: Middleburg, Townsville, Williamsboro, East Henderson I, East Henderson II, North Henderson I, North Henderson II, South Henderson I; Warren County, Washington County, Wayne County: White Hall *: Tract 0006: Block Group 6: Block 650, Block 651, Block 659, Block 660, Block 661; Block Group 7: Block 743, Block 744, Block 746, Block 747; Wilson County: Gardners *, Saratoga *, Stantonsburg *: Tract 0010: Block

Group 1: Block 101A, Block 101B, Block 112, Block 116A, Block 117A, Block 117B, Block 117C, Block 118A, Block 118B, Block 119, Block 120A, Block 120B, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139A, Block 139B, Block 140, Block 141A, Block 141B, Block 142, Block 143, Block 144A, Block 144B, Block 145, Block 146A, Block 146B, Block 147A, Block 147B, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164; Tract 0011: Block Group 2: Block 230B; Toisnot *: Tract 0013: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 124, Block 125, Block 134, Block 135, Block 136, Block 137, Block 138, Block 143, Block 144, Block 145, Block 146; Block Group 2: Block 201, Block 202, Block 203, Block 205, Block 213, Block 214; Block Group 3: Block 301, Block 302A, Block 302B, Block 302C, Block 303A, Block 303B, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311A, Block 311B, Block 311C, Block 312A, Block 312B, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325A, Block 326A, Block 327, Block 329, Block 336, Block 337, Block 338, Block 339; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407A, Block 408, Block 409, Block 410, Block 411, Block 412A; Block Group 5: Block 508, Block 509, Block 512, Block 513, Block 514, Block 521, Block 522, Block 523A, Block 523B, Block 524A, Block 524B, Block 525A, Block 526, Block 527, Block 528, Block 529A, Block 529B, Block 529C, Block 530A, Block 530B, Block 531A, Block 532, Block 533, Block 534, Block 535, Block 536, Block 537,

Block 538, Block 539, Block 540, Block 541A, Block 541B, Block 542, Block 543, Block 544, Block 545, Block 546, Block 547, Block 548; Wilson A *, Wilson B *, Wilson C *, Wilson E *: Tract 0001: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 114, Block 115, Block 116, Block 117, Block 122, Block 123; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 213, Block 214, Block 215, Block 217, Block 218, Block 219; Tract 0006: Block Group 2: Block 206, Block 210, Block 213, Block 214, Block 216, Block 217; Block Group 5: Block 518B; Tract 0013: Block Group 4: Block 416; Wilson F *, Wison G *, Wilson H *, Wilson I *: Tract 0003: Block Group 1: Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 127, Block 128, Block 129; Block Group 2: Block 207, Block 208, Block 213, Block 214, Block 223; Wilson N *, Wilson O *.

District 2: Durham County: Neal Junior H.S. *, Brogden Junior H.S. *, Club Blvd. School *, Edison Johnson Community Center *, E.K. Powe School *, Fire Station #6 *, Hillandale School *, Holy Infant Catholic Church *, Hope Valley School *, Multi-Purpose Building/Duke *, NC School of Science & Math *, Rogers-Herr Junior H.S. *, St. Stephens/Parish Hall *: Tract 0020.07: Block Group 4: Block 406, Block 410; Tract 0020.08: Block Group 1, Block Group 2, Block Group 3: Block 301A, Block 301B, Block 302A, Block 302B, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4; Cole Mill Church of Christ *, Eno Valley School *, Bethesda Ruritan Club *, Oak Grove School *, Durham Academy Gym *, Five Oaks Seventh Day Adventist Church *, Jordan H.S. *, Nelson Community Center *, Parkwood School *; Edgecombe County: Precinct 1-2 *: Tract 0209: Block Group 2: Block 209, Block 210, Block 216A, Block 216B, Block 217A, Block 217B, Block 217C, Block 217D, Block 218, Block 225, Block 226, Block 227; Tract 0210:

Block Group 5: Block 506, Block 507, Block 516, Block 517, Block 518, Block 530, Block 531, Block 532; Block Group 9; Tract 0212: Block Group 2, Block Group 5; Tract 0213: Block Group 2: Block 248A, Block 248B, Block 250; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304A, Block 304B, Block 305, Block 306A, Block 306B, Block 307, Block 308, Block 318A; Precinct 1-3 *, Precinct 1-4 *, Precinct 2-1 *, Tract 0209: Block Group 2: Block 220, Block 221, Block 222, Block 223; Precinct 8-1 *, Tract 0213: Block Group 3: Block 301C, Block 306C, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318B, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326; Precinct 9-1 *, Precinct 10-1 *, Precinct 11-1 *, Tract 0213: Block Group 1: Block 102, Block 122, Block 123, Block 124; Precinct 12-3 *: Tract 0202: Block Group 1: Block 151B, Block 151C, Block 153; Block Group 4: Block 411B, Block 416B, Block 417B, Block 424C, Block 424D, Block 425; Block Group 5: Block 506B, Block 513C, Block 516, Block 520C; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 624, Block 626, Block 627, Block 628, Block 632, Block 633; Tract 0203: Block Group 5: Block 501B; Block Group 6: Block 618, Block 619; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706B, Block 707B, Block 708B, Block 709B, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715C, Block 716B, Block 717B, Block 718B, Block 729B, Block 730B, Block 735B; Tract 0204: Block Group 7: Block 701, Block 711; Tract 0213: Block Group 1: Block 101, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block

125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135; Block Group 2: Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217B, Block 218B; Tract 0214: Block Group 1: Block 101, Block 104, Block 105; Precinct 13-1 *, Precinct 14-1 *; Franklin County, Granville County: Brassfield *, Butner *, Creedmoor *, Antioch *, Corinth *, Credle *, East Oxford *, South Oxford *, Salem *, Tally Ho *; Halifax County: Hollister *: Tract 9906: Block Group 3: Block 301B, Block 302B, Block 302C, Block 303A, Block 303C; Tract 9908: Block Group 1: Block 117A, Block 117B, Block 124A, Block 124B, Block 124C, Block 125A, Block 126, Block 129, Block 130, Block 131A, Block 131B, Block 131C, Block 132, Block 133, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146; Block Group 2: Block 205, Block 206; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 331, Block 332; Block Group 4: Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 418, Block 419, Block 420, Block 421; Faucett *: Tract 9906: Block Group 2: Block 220, Block 221C, Block 223B, Block 225B, Block 229, Block 230, Block 231B, Block 232, Block 233, Block 234, Block 235, Block 242, Block 243, Block 244, Block 245, Block 246, Block 249, Block 250, Block 251, Block 252, Block 253, Block 254, Block 255, Block 256, Block 257, Block 258, Block 259, Block 260, Block 261, Block 262, Block 263, Block 264; Block Group 3: Block 301C, Block 301D, Block 302D, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 311, Block 312, Block 313, Block 315, Block 316; Tract 9907: Block Group 4: Block 408A; Littleton #1 *: Tract 9907: Block Group 4: Block 405, Block 406, Block 408B, Block 409, Block

410, Block 413; Littleton #2 *, Roanoke Rapids #1 * Roanoke Rapids #2 *, Roanoke Rapids #3 *, Roanoke Rapids #4 *, Roanoke Rapids #5 *, Roanoke Rapids #6 *, Roanoke Rapids #8 *, Roanoke Rapids #9 *: Tract 9905: Block Group 2: Block 216, Block 218, Block 219; Block Group 5: Block 517B, Block 518; Block Group 6: Block 610B, Block 611, Block 612; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707B, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 717, Block 718; Roanoke Rapids #10 *, Roanoke Rapids #11 *; Harnett County, Johnston County, Lee County, Moore County: Township 4, Ritters: Tract 9501: Block Group 2: Block 202A, Block 203A, Block 210, Block 211A, Block 212, Block 213, Block 214, Block 215, Block 231, Block 242; Township 5, Deep River, Tract 9501: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109C, Block 110B, Block 142B, Block 142C, Block 142D, Block 142E, Block 142F, Block 145G, Block 146B, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 179B, Block 179C; Township 6, Greenwood, Township 7, McNeill, Township 8, Sand Hill, Township 9, Mineral Springs, Township 10, Little River; Nash County: Bailey *, Castalia *, Coopers *, Drywells *, Ferrells *, Griffins *: Tract 0109: Block Group 1: Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 4: Block 452; Jacksons *, Mannings #1 *, Mannings #2 *, Nashville *, Oak Level, Oak Level Noncontiguous, Red Oak *, Rocky Mount #1 *, Rocky Mount #2 *, Rocky Mount #5 *, Rocky Mount #6 *, Rocky Mount #7 *, Stony Creek #1, Stony Creek Noncontiguous A, Stony Creek Noncontiguous B; Vance County: Dabney, Hilltop, Kittrell, Sandy Creek, Watkins, South Henderson II, West Henderson I, West Henderson IIA, West Henderson IIB; Wake County: New

Light #1 *; Wilson County: Black Creek *, Cross Roads *, Old Fields *, Spring Hill *, Stantonsburg *: Tract 0008.02: Block Group 2: Block 238, Block 239, Block 240, Block 245, Block Block 246, Block 247, Block 248, Block 249, Block 250; Block Group 3: Block 319A, Block 320, Block 321A, Block 322, Block 323; Tract 0009: Block Group 2: Block 301B; Tract 0010: Block Group 1: Block 101C, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 113, Block 114, Block 115, Block 116B; Taylors *, Toisnot *: Tract 0012: Block Group 1: Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 114, Block 118, Block 119, Block 120, Block 121; Tract 0013: Block Group 1: Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 139, Block 140, Block 141, Block 142; Block Group 2: Block 204, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 251, Block Group 3: Block 325B, Block 328; Block Group 4: Block 407B, Block 412B, Block 413, Block 414; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 510, Block 511, Block 515, Block 516A, Block 516B, Block 517, Block 518, Block 519, Block 520, Block 525B, Block 531B, Block 549; Wilson D *, Wilson E *: Tract 0006: Block Group 2: Block 201, Block 202, Block 205, Block 207, Block 208, Block 209, Block 211, Block 212, Block 215; Block Group 3, Block Group 5: Block 517, Block 518A; Tract 0013: Block Group 4: Block 415, Block

417, Block 418; Wilson I *: Tract 0003: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 126; Block Group 2: Block 209, Block 210, Block 211, Block 212; Tract 0004: Block Group 5: Block 520B, Block 520X, Block 520Y, Block 520Z, Block 521, Block 522, Block 523, Block 524A, Block 524B, Block 525, Block 526, Block 527A, Block 527B, Block 528A, Block 528B, Block 529A, Block 529B, Block 529C, Block 531A, Block 531B, Block 532A, Block 532B, Block 535; Tract 0008.02: Block Group 2: Block 207, Block 208, Block 209, Block 210, Block 211A, Block 211B, Block 211C, Block 212, Block 213, Block 214, Block 234A, Block 234B, Block 235, Block 251A, Block 251B, Block 252, Block 253A, Block 253B, Block 254, Block 255, Block 256 Block 257; Tract 0009: Block Group 1: Block 108, Block 109; Wilson J *, Wilson K *, Wilson L *, Wilson M *, Wilson P *.

District 3: Beaufort County: Bath township, Long Acre township, Pantego township, Washington township: Tract 9902: Block Group 1: Block 129B, Block 130B, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157B, Block 158B, Block 159B, Block 160B, Block 175B, Block 176B, Block 185B, Block 186B, Block 187B, Block 189, Block 190, Block 191, Block 197; Block Group 2; Tract 9905: Block Group 5: Block 522A, Block 528A; Camden County, Carteret County; Craven County: Ernul *, Epworth *, Vanceboro *, Bridgeton *, Truitt *, Croatan *: Tract 9611: Block Group 1: Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 117, Block 118A, Block 118B, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127; Block

Group 2: Block 201, Block 205, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 224, Block 225; Havelock *: Tract 9611: Block Group 1: Block 128A, Block 128B, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134; Block Group 2: Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 251, Biock 252, Block 253, Block 254A, Block 254B, Block 255A, Block 255B, Block 256, Block 257, Block 258, Block 259A, Block 259B, Block 260, Block 261, Block 262A, Block 262B, Block 262C, Block 263, Block 264, Block 265, Block 266, Block 267, Block 268, Block 269, Block 270, Block 271, Block 272, Block 273, Block 274, Block 275, Block 276, Block 277, Block 278, Block 279, Block 280A, Block 280B, Block 280C, Block 281, Block 282; Block Group 3; Tract 9612, Tract 9613: Block Group 1, Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210A, Block 210B, Block 210C, Block 211A, Block 211B, Block 211C, Block 212, Block 213 Block 214, Block 215, Block 216, Block 217A, Block 217B, Block 217C, Block 218A, Block 218B, Block 218C, Block 220, Block 221, Block 224, Block 225; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306A, Block 306B, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316A, Block 316B, Block 317A, Block 317B, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323A, Block 323C; Block Group 4, Block Group 5: Block 503A, Block 503B, Block 503C, Block 503D, Block 503E, Block 505A, Block 505B, Block 506A, Block 506B, Block 507A, Block 507B, Block 508A, Block 508B, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525A, Block 526, Block 527, Block 528, Block 529, Block 530, Block 531, Block 532, Block 533, Block 534, Block 535, Block 536, Block

537, Block 540B; Block Group 6: Block 642, Block 643 Block 644A, Block 644B, Block 645; Grantham *, Sixth Ward *, Country Club *, Rhems *: Tract 9604: Block Group 7: Block 704; River Bend *, Tract 9604: Block Group 5: Block 562A; Block Group 7: Block 703, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711A, Block 712A, Block 713, Block 714, Block 715, Block 716, Block 717, Block 718, Block 719, Block 720, Block 721, Block 722, Block 723, Block 624, Block 725, Block 726, Block 727, Block 728, Block 729, Block 730, Block 731, Block 732, Block 733, Block 734, Block 735, Block 736, Block 737, Block 738A: Trent Woods *, Woodrow *; Currituck County; Dare County; Duplin County: Albertson *, Chinquapin *, Cypress Creek *, Calypso *, Faison *, Glisson *: Tract 9901: Block Group 2: Block 203, Block 204, Block 205, Block 206, Block 207, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 226, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250, Block 251, Block 252, Block 253, Block 254, Block 255, Block 256; Wallace *, Beulaville *, Cedar Fork *, Rose Hill *, Smith/Cabin *, Wolfscrape *, Hyde County; Jones County: Beaver Creek *, Chinquapin *, Cypress Creek *, Tuckahoe *, White Oak *; Lenoir County: Falling Creek *, Institute *, Kinston #3 *, Kinston #4 *, Kinston #5 *, Kinston #9 *, Neuse *, Pink Hill #1 *, Pink Hill #2 *, Tract 0112: Block Group 3: Block 339A, Block 341; Sandhill *, Southwest *, Trent #1 *, Trent #2 *: Tract 0112: Block Group 3: Block 301; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 408, Block 409, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block

440, Block 441, Block 442, Block 443, Block 444, Block 446, Block 447, Block 448; Woodlington *, Martin County: Bear Grass, Cross Roads, Griffins, Jamesville, Williams; Onslow County: East Northwoods *, West Northwoods *, Half Moon *: Tract 0012: Block Group 1: Block 101B, Block 102B, Block 108B, Block 109B, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 128, Block 129, Block 132, Block 136, Block 137; Block Group 2: Block 201, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212A, Block 212B, Block 213, Block 214, Block 215, Block 216; Block Group 3: Block 306B, Block 307A: Jacksonville, New River *, Catherine Lake *, Haw Branch *, Gum Branch *, Richlands *, Haris Creek *, Haws Run *, Tract 0004: Block Group 4: Block 408; Holly Ridge *: Tract 0004: Block Group 4: Block 406, Block 407, Block 409, Block 410, Block 414, Block 415, Block 416, Block 417, Block 418, Block 426; Swansboro *, Mills *, Tract 0001: Block Group 1: Block 101, Block 102, Block 103, Block 104B, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 114, Block 115, Block 119, Block 120, Block 125B, Block 129B, Block 133, Block 134B, Block 135B, Block 136, Block 137B; Mortons *, Northeast *, VTD ZZZZ: Tract 0001: Block Group 1: Block 104A, Block 125A, Block 126, Block 127, Block 128, Block 129A, Block 130, Block 131, Block 132, Block 134A, Block 135A, Block 137A, Block 138, Block 139A, Block 140, Block 141, Block 142, Block 143, Block 144A, Block 144B, Block 144C, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169A, Block 170, Block 171A, Block 172, Block 173, Block 174, Block 175, Block 176, Block 177A, Block 177B, Block 178, Block 179, Block 185, Block 186, Block 196A, Block 196B,

Block 197A, Block 197B; Tract 0002: Block Group 6: Block 627A, Block 628, Block 629A, Block 629B, Block 630A, Block 631, Block 632, Block 633, Block 634A, Block 635A, Block 648A, Block 649A; Tract 0012: Block Group 1: Block 101A, Block 102A, Block 103, Block 104, Block 105, Block 106, Block 107A, Block 108A, Block 109A; Tract 0013: Block Group 1: Block 107; Pamlico County: Pamlico County; Pasquotank County: Mount Hermon, Providence, Salem, Elizabeth City 1-B, Elizabeth City 2-A, Elizabeth City 2-B; Pender County: North Burgaw *, South Burgaw *, Grady *: Tract 9805: Block Group 4: Block 407, Block 409, Block 418, Block 420, Block 421, Block 422, Block 423, Block 424, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443, Block 444, Block 445, Block 446, Block 447, Block 448, Block 449, Block 450, Block 451, Block 452, Block 453, Block 454, Block 455, Block 456, Block 458, Block 459, Block 460, Block 461, Block 462, Block 463, Block 464, Block 465, Block 466, Block 467, Block 471, Block 473, Block 474, Block 475, Block 476, Block 477, Block 478, Block 479, Block 480, Block 481, Block 482, Block 483, Block 485, Block 493, Block 494, Block 496; Tract 9806: Block Group 3: Block 339; Middle Holly *, Long Creek *, Penderlea *, Lower Union *, Rocky Point *, Upper Topsail *; Pitt County: Ayden West *, Chicod *, Simpson *, Swift Creek *, Winterville West *, Winterville East *, Greenville #7 *, Greenville #8 *, Greenville #9 *, Greenville #10 *, Greenville #11 *, Greenville #12 *; Sampson County, Tyrrell County, Wayne County: Brogden *, Mt. Olive *, Buck Swamp *, Fork *, Grantham *, Great Swamp *, Goldsboro #1 *, Goldsboro #2 *, Goldsboro #3 *, Goldsboro #4 *, Goldsboro #5 *, Indian Springs *, White Hall *: Tract 0006: Block Group 6: Block 605, Block 624, Block 625, Block 626, Block 627, Block 628, Block 629, Block 630, Block 631, Block 632, Block 633, Block 634, Block 635, Block 636, Block 644, Block 645, Block 646,

Block 647, Block 652, Block 653, Block 654, Block 655, Block 656, Block 657, Block 658; Block Group 7: Block 701, Block 702, Block 703, Block 704A, Block 704B, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714A, Block 714B, Block 715, Block 716A, Block 716B, Block 717, Block 718, Block 719, Block 720, Block 721, Block 722, Block 723, Block 724, Block 725, Block 726, Block 727, Block 728A, Block 728B, Block 729A, Block 729B, Block 730, Block 731, Block 732, Block 733, Block 734, Block 735, Block 736, Block 737, Block 738, Block 739, Block 740, Block 741, Block 742, Block 745, Block 748; Eureka *, Fremont *, New Hope *, Pikeville *, Saulston *, Pinewood *, Stoney Creek *.

District 4: Chatham County, Orange County: Orange Grove *, White Cross *, Carr *: Tract 0108: Block Group 1: Block 130, Block 131, Block 132, Block 154, Block 185, Block 186, Block 187; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443, Block 444, Block 445, Block 446, Block 447, Block 448, Block 449, Block 450, Block 451, Block 452, Block 453, Block 454, Block 472, Block 475, Block 476A, Block 477, Block 478, Block 479A, Block 480, Block 481, Block 482, Block 483A, Block 484A, Block 485A; Tract 0111: Block Group 2: Block 206A, Block 207, Block 209, Block 210, Block 211A, Block 212A, Block 213, Block 214A, Block 215A; Cedar Grove *: Tract 0108: Block Group 1: Block 145, Block 147, Block 149, Block 150, Block 151, Block 152, Block 153, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165,

Block 166, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 174, Block 175, Block 176, Block 177, Block 178, Block 179, Block 180, Block 181, Block 182, Block 183, Block 184, Block 188, Block 189, Block 190; Block Group 4: Block 455, Block 456, Block 457, Block 458, Block 459, Block 460, Block 461, Block 462, Block 463A, Block 464, Block 465, Block 466A, Block 467A, Block 468, Block 469A, Block 470A, Block 471A, Block 473, Block 474; Tolars *: Tract 0108: Block Group 2: Block 271, Block 272, Block 273, Block 274, Block 278, Block 279, Block 280, Block 281, Block 282, Block 283, Block 284A; Block Group 3: Block 307A, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319A, Block 342A, Block 342B, Block 343, Block 344, Block 345, Block 346A, Block 347, Block 348, Block 349, Block 350, Block 351, Block 354A, Block 355A, Block 356A, Block 357, Block 358A, Block 359, Block 360A, Block 361A, Block 361B, Block 381, Block 382; Tract 0109: Block Group 2: Block 213A; Battle Park *, Coker Hills *, Coles Store *, Colonial Heights *, Country Club *, Dogwood Acres *, East Franklin *, Eastside *, Estes Hills *, Foxcroft *, Glenwood *, Greenwood *, Kings Mill *, Lincoln *, Lions Club *, Mason Farm *, NorthCarrboro *, Norside *, Owasa *, Patterson *, Ridgefield *, St. John *, Town Hall *, Weaver Dairy *, Westood *, Cheeks *, Efland *, St. Marys *, Cameron Park *, Grady Brown *, Hillsborough *, West Hillsborough *, Caldwell *: Tract 0108: Block Group 3: Block 338, Block 339, Block 340, Block 346B, Block 352, Block 353, Block 354B, Block 355C, Block 356B, Block 361E, Block 362B, Block 363, Block 364, Block 365, Block 366, Block 367, Block 368, Block 369, Block 376, Block 377, Block 378, Block 379, Block 380B; Wake County: Raleigh 01-01 *, Raleigh 01-02 *, Raleigh 01-03 *, Raleigh 01-04 *, Raleigh 01-05 *, Raleigh 01-06 *, Raleigh 01-07 *, Raleigh 01-09 *, Raleigh 01-10 *, Raleigh 01-11 *, Raleigh 01-12 *, Raleigh

01-13 *, Raleigh 01-14 *, Raleigh 01-15 *, Raleigh 01-16 *, Raleigh 01-17 *, Raleigh 01-18 *, Raleigh 01-19 *, Raleigh 01-20 *, Raleigh 01-21 *, Raleigh 01-22 *, Raleigh 01-23 *, Raleigh 01-26 *, Raleigh 01-27 *, Raleigh 01-28 *, Raleigh 01-29 *, Raleigh 01-30 *, Raleigh 01-31 *, Raleigh 01-32 *, Raleigh 01-33 *, Raleigh 01-34 *, Raleigh 01-35 *, Raleigh 01-36 *, Raleigh 01-37 *, Raleigh 01-38 *, Raleigh 01-39 *, Raleigh 01-40 *, Raleigh 01-41 *, Raleigh 01-42 *, Raleigh 01-43 *, Raleigh 01-44 *, Raleigh 01-45 *, Raleigh 01-46 *, Bartons Creek #1 *, Bartons Creek #2 *, Buckhorn *, Cary #1 *, Cary #2 *, Cary #3 *, Cary #4 *, Cary #5 *, Cary #6 *, Cary #7 *, Cary #8 *, Cary #9 *, Cary #10 *, Cedar Fork *, Holly Springs *, House Creek #1 *, House Creek #2 *, House Creek #3 *, House Creek #4 *, House Creek #5 *, House Creek #6 *, Leesville #1 *, Leesville #2 *, Leesville #3 *, Little River #1 *, Little River #2 *, Marks Creek #1 *, Marks Creek #2 *, Meredith *, Middle Creek #1 *, Middle Creek #2 *, Raleigh 01-27 Part, Neuse #1 *, Neuse #2 *, New Light #2 *, Panther Branch *, St. Marys #1 *, St. Marys #2 *, St. Marys #3 *, St. Marys #4 *, St. Marys #5 *, St. Marys #6 *, St. Marys #7, St. Matthews #1 *, St. Matthews #2 *, St. Matthews #3 *, St. Matthews #4 *, Swift Creek #1 *, Swift Creek #2 *, Swift Creek #3 *, Swift Creek #4 *, Wake Forest #1 *, Wake Forest #2 *, White Oak #1 *, White Oak #2 *.

District 5: Alleghany County; Ashe County; Burke County: Drexel #1 *, Drexel #2 *, Linville #2 *, Lower Creek *, Morganton #1 *, Morganton #3 *, Morganton #4 *, Morganton #5 *, Morganton #6 *, Morganton #7 *, Morganton #8 *, Morganton #9 *, Morganton #10 *, Quaker Meadow #1 *, Quaker Meadow #2 *, Silver Creek #1 *, Silver Creek #3 *, Silver Creek #4 *, Smoky Creek *; Caldwell County: Kings Creek *, Lenoir #1 *, Lenoir #2 *, Lenoir #3 *, Lenoir #4 *, Lower Creek #1 *, Lower Creek #4 *, Yadkin Valley *; Caswell County, Forsyth County: Abbotts Creek #3 *, Belews Creek *, Bethania #1

*, Bethania #3 *, Kernersville #1 *, Kernersville #2 *, Kernersville #3 *, Kernersville #4 *, Middlefork #2 *, Middlefork #3 *, Old Town #2 *, Salem Chapel #1 *, Salem Chapel #2 *, Ardmore Baptist Church *, Bethabara Moravian Church *, Bible Wesleyan Church *, Bishop McGuinness *, Bolton Swimming Center *, Brown/Douglas Recreation *, Brunson Elementary School *, Christ Moravian Church *, Country Club Fire St. *, Covenant Presbyterian Church *, Easton Elementary School *, First Christian Church *, Forest Hill Fire Station *, Forsyth Tech W. Camp. *, Greek Orthodox Church *, Hanes Community Center *, Hill Middle School *, Latham Elementary School *, Memorial Coliseum *, Miller Park Recreation Center *, Mineral Springs F. St. *, Mt. Tabor High School *, New Hope United Methodist Church *, Old Town Presbyterian Church *, Parkland High School *, Parkway United Church *, Philo Middle School *, Polo Park Recreation Center *, Reynolds High School Gym *, South Fork Elem School *, St. Anne's Episcopal Church *, Summit School *, Trinity Moravian Church *, Trinity United Methodist Church *, Whitaker Elementary School *; Granville County: Oak Hill *, West Oxford Elementary *, Sassafras Fork *, Walnut Grove *; Guilford County: North Madison *, Stokesdale *: Tract 0158: Block Group 1: Block 105A, Block 107A, Block 108A; Tract 0159: Block Group 1: Block 105A, Block 114A, Block 115A, Block 116, Block 117A, Block 118A, Block 118B, Block 125, Block 126, Block 127, Block 128A, Block 129A; Block Group 2: Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232B, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239A, Block 240, Block 241, Block 242, Block 243A, Block 244, Block 245, Block 246, Block 247, Block 248,

Block 249, Block 250, Block 251A, Block 252, Block 253; Block Group 3: Block 306A, Block 314A, Block 315A, Block 320, Block 321B, Block 322B, Block 323A, Block 323B; Person County, Rockingham County, Stokes County; Surry County, Watauga County; Wilkes County: Beaver Creek *, Boomer *, Elk No. 2 *, Moravian Falls *, No. Wilkesboro-1 *, No. Wilkesboro-3 *, Wilkesboro No. 1 *.

District 6: Alamance County: Albright *, Central Boone *, North Boone *, South Boone *, West Boone *, Boone #5 *, East Burlington *, North Burlington *: Tract 0201.01: Block Group 1: Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 117, Block 118; Block Group 2: Block 201, Block 209, Block 224; Tract 0202: Block Group 1: Block 104, Block 112, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123; Tract 0203: Block Group 1: Block 102, Block 103, Block 106, Block 111A, Block 111B, Block 112, Block 113A, Block 113B, Block 113C; Block Group 2: Block 203, Block 204, Block 205, Block 206, Block 207, Block 209, Block 210; Block Group 3; Tract 0204: Block Group 3: Block 301, Block 302, Block 303, Block 305, Block 348, Block 349; Tract 0205: Block Group 8: Block 807, Block 823; South Burlington *, West Burlington *, Burlington #5 *, Burlington #6 *, Burlington #8 *, Burlington #9 *, Coble *, East Graham *, North Graham *, South Graham *, Graham #3 *, North Melville *, South Melville *, Melville #3 *, North Newlin *, South Newlin *, Patterson *, North Thompson *, South Thompson *; Davidson County: Abbotts Creek *: Tract 0601: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block

206, Block 207, Block 208, Block 209, Block 211, Block 212, Block 213, Block 214, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 248, Block 250; Block Group 3, Block Group 9: Block 901A, Block 901B, Block 902, Block 903, Block 904, Block 905, Block 906, Block 907, Block 908, Block 909, Block 910, Block 911, Block 912, Block 915, Block 916A, Block 916B, Block 917, Block 918, Block 920, Block 921, Block 922; Alleghany *, Arcadia *, Boone *, Central *, Holly Grove *, Liberty *, Cotton *: Tract 0615: Block Group 4: Block 443; Tract 0618.01: Block Group 2: Block 204B, Block 207A, Block 207B, Block 208A, Block 208B, Block 227, Block 235C, Block 236, Block 237C, Block 238; Block Group 3: Block 301, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429; Block Group 5: Block 541, Block 542, Block 543, Block 544, Block 545; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 622, Block 623, Block 624; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 714, Block 715, Block 716, Block 745; Southmont.*, Denton *, Emmons *, Silver Valley *, Hampton *, Healing Springs *, Jackson Hill *, Lexington No. 1 *: Tract 0604: Block Group 2: Block 206, Block 213, Block 226; Tract 0612: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 307, Block 309, Block 310, Block 311, Block 312, Block 314, Block

315, Block 316, Block 317B, Block 318, Block 319, Block 320, Block 321, Block 322, Block 324B, Block 325B, Block 326B, Block 327B, Block 348B, Block 349C, Block 350C, Block 350D, Block 370E, Block 371B, Block 372, Block 373B, Block 374, Block 375, Block 382; Lexington No. 2 *, Lexington No. 3 *, Lexington No. 4 *, Ward No. 2 *: Tract 0613: Block Group 2: Block 220, Block 221, Block 222, Block 223, Block 237; Block Group 3: Block 340, Block 341, Block 342; Tract 0614: Block Group 2: Block 210, Block 211; Tract 0615: Block Group 1: Block 106, Block 107, Block 109, Block 110, Block 111, Block 112, Block 113, Block 120, Block 121; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 449, Block 450, Block 451, Block 452, Block 453A; Tract 0616: Block Group 1: Block 101, Block 102, Block 103, Block 105, Block 106, Block 107, Block 108, Block 109, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131; Block Group 2, Block Group 3: Block 301A, Block 302A, Block 314A, Block 315A, Block 319A, Block 320, Block 321, Block 322; Tract 0618.01: Block Group 2: Block 211; Ward No. 3 *, Ward No. 6 *: Tract 0614: Block Group 3: Block 340; Block Group 4: Block 413B, Block 413C, Block 414, Block 415, Block 416; Tract 0615: Block Group 1: Block 131, Block 132; Block Group 2: Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242; Block Group 3: Block 301C, Block 301D, Block 302B, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308,

Block 309, Block 310, Block 311, Block 312, Block 313A, Block 313B, Block 314, Block 315, Block 316, Block 317A, Block 317B, Block 368A, Block 368B, Block 369, Block 370, Block 371; Tract 0618.02: Block Group 2: Block 201, Block 202, Block 203, Block 204A, Block 205, Block 206A, Block 206B, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234A, Block 234B, Block 235A, Block 235B, Block 237A, Block 237B; Tract 0618.02: Block Group 1: Block 101a, Block 135; Welcome *, Midway *, Reeds *, Tyro *, Reedy Creek *, Silver Hill *, Thomasville No. 4 *: Tract 0609: Block Group 1, Block Group 2, Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308A, Block 310, Block 313A, Block 315A, Block 316, Block 317A, Block 317B, Block 318, Block 319, Block 320, Block 321, Block 322A, Block 322B, Block 324A, Block 324B, Block 324C, Block 325, Block 326A, Block 327, Block 328A; Block Group 4, Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 09, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 518, Block 519, Block 520, Block 521, Block 522; Block Group 9: Block 901A, Block 903A, Block 911A, Block 911B; Tract 0611: Block Group 1: Block 101, Block 102, Block 103A; Thomasville No. 5 *, Thomasville No. 7 *: Tract 0605: Block Group 1: Block 107, Block 108 Block 109, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 119, Block 126, Block 127; Block Group 9: Block 903, Block 904, Block 905, Block 906, Block 907, Block 908, Block 915, Block 917; Thomasville No. 8 *: Tract 0605: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 110, Block 111; Block Group 9: Block 901, Block 902, Block 909, Block 910, Block 911, Block 912; Tract 0606: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112B, Block 113B, Block 114, Block 115, Block 116, Block 117, Block 118B,

Block 119B, Block 120B, Block 121B, Block 122B, Block 123, Block 124; Block Group 4: Block 401A, Block 401B, Block 401C, Block 402A, Block 402B, Block 403, Block 404, Block 405A, Block 405B, Block 405C, Block 405D, Block 405E, Block 406A, Block 406B, Block 407, Block 413, Block 414; Block Group 9: Block 901, Block 902, Block 905, Block 906B, Block 907, Block 908, Block 909, Block 910, Block 930B, Block 934, Block 935B, Block 956, Block 959B; Tract 0607: Block Group 1: Block 101B, Block 102B; Block Group 3: Block 324B, Block 325, Block 326B; Tract 0608: Block Group 1: Block 101, Block 102B, Block 104B; Thomasville No. 9 *, Thomasville No. 10 *, Yadkin College *; Davie County: Fulton township, Jerusalem township, Mocksville township, Shady Grove township; Guilford County: GB-10 *, GB-11 *, GB-12 *, GB-13 *, GB-14 *, GB-15 *: Tract 0116.01: Block Group 1: Block 105, Block 108, Block 109, Block 110, Block 11, Block 112, Block 113, Block 114; Block Group 2: Block 201; Block Group 4: Block 410, Block 411, Block 412, Block 415, Block 417; GB-16 *, GB-17 *, GB-18 *, GB-20 *, GB-21 *, GB-22 *, GB-27A *, GB-28 * GB-31 *, GB-32 *, GB-34A *, GB-35A *, GB-37A *, GB-38 * GB-39 *, GB-40A *, GB-41A *, GB-43 *, HP-01 * HP-02 *, HP-04 *, HP-08 *, HP-09 *, HP-10 *, HP-13 *, HP-14 *, HP-16 *, HP-18 *, HP-19 *, HP-20 *, HP-21 *, HP-23 *, HP-24 *, Bruce *, North Center Grove *, South Center Grove *, Clay *, Deep River *, Fentress-1 *, Fentress-2 *, Friendship-1 *, Friendship-2 *, Whitsett *, Greene *, Jamestown-1 *: Tract 0164.01: Block Group 2: Block 221Y, Block 221Z, Block 223A; Tract 0614.02: Block Group 4: Block 401W, Block 401Z, Block 402, Block 403C, Block 403D, Block 403E, Block 403F, Block 403G, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 412, Block 424, Block 425, Block 426, Block 434, Block 435, Block 443X, Block 443Y, Block 443Z, Block 444, Block 445, Block 446, Block 447Y, Block 447Z; Block Group 9: Block 901A; Tract 0165.02: Block Group 3: Block 315X, Block 315Y, Block 315Z, Block 317; James-

town-2 *: Tract 0164.01: Block Group 2: Block 201F, Block 201G, Block 211B, Block 212B, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221C, Block 221D, Block 222, Block 223B; Tract 0164.02: Block Group 4: Block 401C; Tract 0165.01: Block Group 2: Block 201D, Block 201E, Block 202, Block 211B, Block 211C; Tract 0165.02: Block Group 1: Block 103D, Block 103E, Block 104, Block 108B, Block 109C, Block 110B, Block 111B, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 211, Block 224; Block Group 3: Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 315B, Block 316, Block 318, Block 319, Block 320, Block 321, Block 322; Block Group 4: Block 407A, Block 415A, Block 415B, Block 418A; Tract 0166: Block Group 9: Block 904, Block 905, Block 906, Block 907, Block 930A, Block 952, Block 953; Tract 0167: Block Group 1: Block 105A, Block 106A, Block 106B, Block 110A, Block 111A, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118A, Block 119A,a Block 120, Block 121, Block 122, Block 123, Block 124, Block 125; Block Group 5: Block 501A, Block 502, Block 503, Block 504, Block 505, Block 506A, Block 507A, Block 508A, Block 510A, Block 511; Jamestown-3 *, North Jefferson *: Tract 0127.07: Block Group 2: Block 201C, Block 201D; Tract 0128.03: Block Group 2: Block 208, Block 209, Block 210, Block 211, Block 212, Block 215, Block 216, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 225, Block 226, Block 227B, Block 232, Block 233, Block 234C; Tract 0153: Block Group 1: Block 101A, Block 102A, Block 103, Block 104A, Block 105A, Block 106A, Block 112A, Block 113, Block 114A, Block 133, Block 134; Block Group 2, Block Group 3: Block 302A, Block 304, Block 305, Block 306, Block 307, Block 308, Block 313, Block 314, Block 315, Block 316; Tract 0154: Block Group 5: Block 511A, Block 520A, Block 521, Block 522A, Block 523, Block 524A, Block 525A, Block 526A,

Block 527, Block 528A; Block Group 6: Block 601, Block 602A, Block 603, Block 604, Block 605B, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611; South Jefferson *, South Madison *, North Monroe *, South Monroe *, Oak Ridge *, Stokesdale *: Tract 0159: Block Group 2: Block 201A, Block 201B, Block 202, Block 232A; Block Group 3: Block 303A, Block 307A, Block 308A, Block 309A, Block 310, Block 311, Block 312, Block 313, Block 316, Block 321A, Block 322A; South Sumner *, North Washington *, South Washington *: Tract 0151: Block Group 1: Block 149; Tract 0152: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415B, Block 416B; Tract 0153: Block Group 1: Block 101B, Block 102C, Block 104C; Tract 0154: Block Group 4: Block 401C, Block 404B; Block Group 5: Block 501, Block 502, Block 506B; GB-27B *, GB-34B *, GB-35B *, GB-37B *, GB-40B *, GB-41B *, GB-24C *, GB-27C *, Randolph County, Rowan County: Franklin *: Tract 0505: Block Group 2: Block 201B, Block 202B, Block 202C; Block Group 3: Block 301B; Tract 0513.01: Block Group 2: Block 201, Block 202, Block 203, Block 204B, Block 205C, Block 205D, Block 206B, Block 207; Block Group 3: Block 301, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309C, Block 310, Block 311, Block 313, Block 314; Tract 0513.02: Block Group 1: Block 101, Block 102, Block 103B, Block 103C, Block 104B, Block 105B, Block 106, Block 107, Block 108B, Block 114B, Block 119B; Block Group 2, Block Group 3: Block 302, Block 303, Block 304, Block 305, Block 306, Block 319, Block 320; Tract 0519: Block Group 2: Block 224A; Block Group 3: Block 301A; Barnhardt Mill *, Rockwell *, Bostian Crossroads *, Faith, Sumner *: Tract 0502: Block Group 4: Block 411A, Block 411D, Block 411E, Block 416B, Block 417; Tract 0511: Block Group 1: Block 101, Block 102;

Block Group 2: Block 202, Block 203, Block 204, Block 206, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214A, Block 214B, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225; Tract 0512.01: Block Group 1: Block 102C, Block 102D, Block 108C, Block 122B, Block 123B, Block 123C; Block Group 2: Block 205, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 312A, Block 312B, Block 312C, Block 312D, Block 313, Block 314, Block 318, Block 319; Block Group 4: Block 401, Block 402A, Block 402B, Block 403, Block 411, Block 412A, Block 412B, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423; Tract 0517: Block Group 1: Block 102B, Block 103B; Morgan I *, Morgan II *, Gold Knob *, Granite Quarry *, Hatters Shop *, West Innes *: Tract 0505: Block Group 2: Block 202A; Block Group 3: Block 301A, Block 301C, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 312, Block 313, Block 314; Tract 0513.02: Block Group 1: Block 103A, Block 104A, Block 105A, Block 108A, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114A, Block 115, Block 116, Block 117, Block 118, Block 119A, Block 120, Block 121, Block 122, Block 123; Block Group 3: Block 321B; North Ward II *: Tract 0505: Block Group 1: Block 101A, Block 102, Block 103, Block 105, Block 106, Block 108, Block 109, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 123, Block 124, Block 126, Block 128, Block 129, Block 130, Block 131, Block 132; Block Group 2: Block 201A, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; Tract 0506: Block Group 1: Block 134, Block 135.

District 7: Bladen County: Abbotts township: Tract 9505: Block Group 2: Block 213A, Block 214A, Block 224A, Block

226A, Block 227A, Block 229; Block Group 4: Block 418B, Block 419B, Block 451A; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506A, Block 508A, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526A, Block 527A, Block 527B, Block 534A, Block 539, Block 540, Block 541, Block 542, Block 543, Block 544, Block 545, Block 546, Block 547, Block 548, Block 549, Block 550, Block 551, Block 552A, Block 554, Block 555, Block 556, Block 557, Block 558, Block 559, Block 560, Block 561, Block 562, Block 563, Block 564, Block 565, Block 566; Bethel township, Bladenboro township, Colly township, Cypress Creek township, Hollow township; Brunswick County: Brunswick County; Columbus County: Bogue township, Bug Hill township, Cerro Gordo township, Chadbourn township: Tract 9906: Block Group 4: Block 401A, Block 403B, Block 404B; Tract 9907: Block Group 1: Block 101A, Block 116, Block 117A, Block 118, Block 124A; Block Group 2: Block 201A, Block 201B, Block 202A, Block 202B, Block 203A, Block 203B, Block 204A, Block 204B, Block 205A, Block 205B, Block 206, Block 207, Block 208A, Block 208B, Block 209A, Block 209B, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 231, Block 240; Block Group 3, Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406A, Block 406B, Block 407, Block 408, Block 409, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435; Block Group 5: Block 521B, Block 522, Block 523, Block 524, Block 525B, Block 526, Block 527, Block 528, Block 529, Block 530B, Block 531B, Block 532; Tract 9909: Block Group 6: Block 609, Block 610, Block 611, Block 618A, Block 620A, Block 621, Block 622, Block 623, Block 624,

Block 625, Block 626A, Block 627A, Block 628, Block 629; Tract 9910: Block Group 2: Block 210A, Block 210B, Block 211A, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220A, Block 228, Block 229; Block Group 3: Block 302A, Block 303, Block 304, Block 305, Block 306, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339; Tract 9911: Block Group 1: Block 101, Block 102A; Fair Bluff township, Lees township, South Williams township, Tatums township, Waccamaw township, Whiteville township: Tract 9905: Block Group 4: Block 401, Block 402, Block 403, Block 404B; Tract 9907: Block Group 1: Block 101C, Block 102, Block 117B, Block 124B, Block 125, Block 126; Tract 9908: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 119, Block 120B, Block 122, Block 123, Block 124, Block 125, Block 126; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 207, Block 208A, Block 208B, Block 209, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226; Block Group 3: Block 301, Block 304, Block 305, Block 306; Block Group 4: Block 405, Block 406; Tract 9909: Block Group 1: Block 104, Block 105, Block 106, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 2, Block Group 3: Block 307, Block 308, Block 343, Block 344, Block 345; Block Group 4: Block 423A, Block 424, Block 425, Block 426, Block 430; Block Group 5: Block 523, Block 524; Block Group 6: Block 617, Block 618B, Block 626B, Block 626C, Block 627B; Tract 9910: Block Group 1: Block 126C, Block 132C; Block Group 2: Block 201A, Block 201B, Block 201C, Block 202, Block

203, Block 204, Block 205, Block 206A, Block 206B, Block 207, Block 208, Block 209, Block 210C, Block 211B, Block 220B, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227; Block Group 3: Block 301B, Block 302B, Block 309B; Williams township; Cumberland County: Beaver Dam *: Tract 0029: Block Group 1: Block 108A, Block 109A, Block 110, Block 111A, Block 112A, Block 112B, Block 115A, Block 117A, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335; Black River *, Linden *, Long Hill *, Westarea *, Judson *, Stedman *, Cross Creek #4 *, Cross Creek #6 *, Cross Creek #7 *, Cross Creek #8 *, Cross Creek #9 *: Tract 0012: Block Group 2: Block 201, Block 202, Block 227, Block 229, Block 230, Block 231, Block 232; Tract 0025.01: Block Group 9: Block 901A, Block 901B, Block 902A, Block 906A, Block 908A, Block 909A, Block 910, Block 912A, Block 913A, Block 914, Block 915, Block 917, Block 919, Block 920, Block 921, Block 922, Block 923, Block 924, Block 925, Block 926, Block 927, Block 928, Block 929, Block 930, Block 932, Block 934C, Block 934D, Block 934H, Block 934J, Block 935, Block 936; Cross Creek #11 *, Cross Creek #12 *, Cross Creek #14 *, Cross Creek #15 *: Tract 0006: Block Group 1: Block 101, Block 102, Block 103, Block 134, Block 135, Block 136, Block 143; Block Group 2, Block Group 3: Block 303, Block 305, Block 306, Block 309; Block Group 4: Block 410, Block 411, Block 412; Tract 0018: Block Group 1: Block 101, Block 102, Block 107, Block 111, Block 123, Block 124A, Block 129, Block 130, Block 131; Block Group

2: Block 203A, Block 204A, Block 205A; Tract 0019.02: Block Group 1: Block 101A; Tract 0020: Block Group 6: Block 619A; Cross Creek #17 *: Tract 0023: Block Group 2: Block 201, Block 208, Block 209, Block 210, Block 215, Block 216B, Block 217, Block 218, Block 219, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 240, Block 251; Block Group 9: Block 901B, Block 903B, Block 906, Block 907B, Block 907C, Block 907D, Block 907E, Block 910; Tract 0024: Block Group 1: Block 103A; Block Group 3: Block 304A, Block 307A, Block 308A; Cross Creek #18 *, Cross Creek #20 *, Cross Creek #21, Cross Creek #22 *, Cross Creek #23 *, Cross Creek #24 *, Cross Creek #2 *, Eastover *, Vander *, Wade *, Alderman *, Spring Lake *: Tract 0035: Block Group 1: Block 110A, Block 119, Block 123; Pearces Mill #2 *, Pearces Mill #4 *, Cumberland #1 *, Cumberland #2 *, Hope Mills #1 *, Hope Mills #2 *, Beaver Lake *, Montclair *, Seventy First #2 *, Seventy First #3 *, New Hanover County: Cape Fear #1 *: Tract 0115: Block Group 1: Block 144, Block 148; Block Group 2: Block 202, Block 205, Block 206, Block 207, Block 208, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216; Block Group 3, Block Group 4: Block 402, Block 403, Block 404, Block 405, Block 406, Block 407; Cape Fear #2 *, Cape Fear #3 *, Federal Point #1 *, Federal Point #2 *, Federal Point #3 *, Wrightsville Beach *, Harnett #2 *, Harnett #3 *, Harnett #4 *, Harnett #5 *, Harnett #6 *, Harnett #7 *, Masonboro #2 *, Masonboro #3 *, Masonboro #4 *, Masonboro #5 *, Wilmington #4 *, Wilmington #5 *, Wilmington #8 *: Tract 0107: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 115, Block 127, Block 131, Block 133, Block 134; Tract 0110: Block Group 1: Block 101, Block 103, Block 107, Block 110, Block 115, Block 116, Block 118, Block 123, Block 125, Block 126, Block 127; Block Group 2: Block 203, Block 205, Block

206, Block 212, Block 214, Block 215, Block 219, Block 220, Block 222, Block 224, Block 225, Block 226; Wilmington #9 *: Tract 0102: Block Group 1: Block 102, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 126; Tract 0103: Block Group 3, Block Group 4, Block Group 5: Block 508, Block 509; Wilmington #11 *, Wilmington #12 *, Wilmington #13 *, Wilmington #14 *, Wilmington #16 *, Wilmington #17 *, Wilmington #18 *; Onslow County: Cross Roads *, Half Moon *: Tract 0012: Block Group 1: Block 130, Block 131; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306A, Block 307B; Block Group 4; Tar Landing *, Brynn Marr *, Folkstone *, Verona *, Bear Creek *, Hubert *, Camp Lejeune Military Base 1, Camp Lejeune Military Base 2, Camp Lejeune Military Base 3, Camp Lejeune Military Base 4, Camp Lejeune Military Base 5, Camp Lejeune Military Base 6, Camp Lejeune Military Base 7, Camp Lejeune Military Base 8, Camp Lejeune Military Base 9, Camp Lejeune Military Base 10, Camp Lejeune Military Base 11, Camp Lejeune Military Base 12, Camp Lejeune Military Base 13, Camp Lejeune Military Base 14; Pender County: Lower Topsail *, Scott's Hill *, Surf City *; Robeson County: Alfordsville *, Back Swamp *, Britts *, Burnt Swamp *, Fairmont #1 *, Fairmont #2 *, Gaddys *, East Howellsville *, West Howellsville *, Lumberton #1 *, Lumberton #2 *, Lumberton #3 *, Lumberton #4 *, Lumberton #5 *, Lumberton #6 *, Lumberton #7 *, Lumberton #8 *, Orrum *, North Pembroke *, South Pembroke *, Philadelphus *, Raft Swamp *, Rowland *, Saddletree *, Smiths *, Smyrna *, Sterlings *, Thompson *, Union *, Whitehouse *, Wishart *.

District 8: Anson County, Cabarrus County, Cumberland County: Manchester *, Spring Lake *: Tract 0034.85: Block Group 1: Block 101, Block 103A; Tract 0035: Block Group 1: Block 101A, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block

112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 120, Block 121, Block 122, Block 124, Block 125, Block 126; Block Group 2: Block 201A, Block 202A, Block 203B, Block 204, Block 205A, Block 206A, Block 207, Block 208A, Block 208C, Block 208W, Block 208X, Block 208Y, Block 208Z, Block 209Y, Block 209Z, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219; Block Group 3, Block Group 4, Block Group 5; Tract 0036.85: Block Group 2: Block 203B; Block Group 3: Block 324A, Block 326A; Block Group 4: Block 401C, Block 403A, Block 404A, Block 404B, Block 404C, Block 405, Block 406, Block 407A, Block 407B, Block 407C, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416A, Block 416B, Block 417; Block Group 5, Block Group 6: Block 606A, Block 608A, Block 608B, Block 609A; Brentwood *, Cottonade *, Morganton Road #1 *, Morganton Road #2 *, Seventy First #1 *; Hoke County, Iredell County: Barringer *: Tract 0613: Block Group 2: Block 216, Block 217A, Block 218, Block 225, Block 226, Block 227; Block Group 4: Block 402A, Block 404A, Block 406A, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423; Block Group 5: Block 501, Block 502, Block 503, Block 504A, Block 505, Block 506D, Block 507, Block 508A, Block 509, Block 510, Block 514A, Block 517, Block 518, Block 519A, Block 524A, Block 525, Block 526A, Block 527A; Chambersburg *: Tract 0607: Block Group 6: Block 610, Block 611, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 624; Tract 0613: Block Group 2: Block 201B; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309B, Block 314B, Block 315B, Block 316B, Block 318, Block 319, Block 320, Block 321, Block 324, Block 325, Block 326; Block Group 4: Block 401, Block

402B, Block 403, Block 404B, Block 405, Block 406B; Coddle Creek #1 *, Coddle Creek #3 *, Mecklenburg County: COR *: Tract 0064: Block Group 2: Block 217F, Block 217H; Block Group 4: Block 401C; CO2 *: Tract 0056.01: Block Group 3: Block 323; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 424, Block 425, Block 426; Tract 0056.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 110, Block 111, Block 113, Block 114; DAV *: Tract 0064: Block Group 2: Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217G, Block 217K, Block 217M, Block 218, Block 219, Block 220, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 231A, Block 232A, Block 233B; Block Group 3: Block 301, Block 304, Block 305A, Block 305B, Block 306, Block 307, Block 308, Block 309, Block 310, Block 316, Block 317; Block Group 4: Block 401B, Block 401E, Block 401G; Block Group 6: Block 603B; Montgomery County; Moore County: Township 1, Carthage, Township 2, Bensalem, Township 3, Sheffields, Township 4, Ritters: Tract 9501: Block Group 1: Block 109A, Block 109B, Block 110A, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126B, Block 126C, Block 130B, Block 130C, Block 131B, Block 131C, Block 132 Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142A, Block 143, Block 144, Block 145A, Block 145B, Block 145C, Block 145D, Block 145E, Block 145F, Block 146A, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 174, Block 175, Block 176, Block 177, Block 178, Block 179A; Block Group 2: Block 229, Block 230B, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238,

Block 239, Block 240, Block 241, Block 243, Block 244, Block 250B; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329B, Block 330, Block 331C, Block 333B, Block 334B, Block 335B, Block 340C, Block 341C, Block 342B, Block 346, Block 347, Block 348; Tract 9502: Block Group 1: Block 134B, Block 134C, Block 149B, Block 149C; Block Group 4: Block 401B, Block 401C, Block 402B, Block 402C, Block 403B, Block 403C, Block 414E, Block 415C, Block 415F, Block 415G, Block 416, Block 417D, Block 417E, Block 417G, Block 417H, Block 418, Block 419, Block 420C, Block 420D; Block Group 5: Block 501, Block 502B, Block 502C, Block 502E, Block 502F, Block 533C, Block 533D, Block 534C, Block 534D, Block 535B, Block 536B, Block 537B, Block 541C, Block 541D; Richmond County, Robeson County: Lumber Bridge *, Maxton *, Parkton *, Red Springs #1 *, Red Springs #2 *, Rennert *, Shannon *, North St. Pauls *, South St. Pauls *; Rowan County: Bradshaw *, Enochville *, Blackwelder Park *, Bostian School *, N. China Grove *, S. China Grove *, East Kannapolis *, West Kannapolis *, East Landis *, West Landis *, Cleveland *, Faith Noncontiguous, Locke *, Sumner *: Tract 0502: Block Group 4: Block 402A, Block 402C, Block 403B, Block 409B, Block 410B, Block 410C, Block 411B, Block 411C, Block 411F, Block 412A, Block 412C, Block 413B, Block 413C, Block 415A, Block 415B, Block 416C; Tract 0511: Block Group 2: Block 201C, Block 205; Tract 0512.01: Block Group 2: Block 206; Mt. Ulla *, East Ward I *, West Ward I *, West Ward II *, Steele *, Tract 0519: Block Group 3: Block 334B, Block 335; Scotland County, Stanly County; Union County.

District 9: Cleveland County: Boiling Springs *, Pearl *, East Kings Mountain *, West Kings Mountain *, Grover

*, Bethware *, Waco *, Shanghai *, Falston *, Mulls *, Casar *; Gaston County: Cherryville #1 *, Cherryville #2 *, Cherryville #3 *, Landers Chapel *, Tryon *, Bessemer City #1 *, Bessemer City #2 *: Tract 0316: Block Group 2, Block Group 3, Block Group 4: Block 401A, Block 401B, Block 402, Block 403A, Block 403B, Block 403C, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411A, Block 411B, Block 412, Block 413, Block 414B, Block 417A, Block 417C; Tract 0317.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129; Block Group 2: Block 202; Block Group 3: Block 301, Block 302; Tract 0318: Block Group 1: Block 101C, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Tract 0331: Block Group 1: Block 103D, Block 105A; Crowders Mtn. *, Alexis *, Dallas #1 *, Dallas #2 *, High Shoals *, Armstrong *, Ashbrook *, Firestone *: Tract 0329: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115; Block Group 2: Block 207; Block Group 3: Block 306, Block 307, Block 317; Block Group 4: Block 404, Block 405, Block 406; Tract 0330: Block Group 1: Block 118, Block 119, Block 120, Block 126, Block 127, Block 128, Block 129, Block 131, Block 133, Block 134, Block 135, Block 136, Block 137, Block 157, Block 158, Block 159, Block 160, Block 161; Flint Groves *: Tract 0313.02: Block Group 2: Block 205A, Block 217A, Block 219; Tract 0314: Block Group 2, Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 418, Block 419; Block Group 5: Block 501A, Block 501B, Block 502, Block 503A, Block 503B, Block 504, Block

505A, Block 505B, Block 506A, Block 506B, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512A, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521A, Block 522A; Block Group 6; Tract 0321: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 320, Block 325, Block 326, Block 327; Forest Heights *, Gardner Park *, Gaston Day *, Grier *, Health Center *: Tract 0308: Block Group 7: Block 701, Block 705A, Block 705B, Block 713, Block 714, Block 715, Block 716, Block 717; Tract 0315: Block Group 1: Block 103A, Block 103B, Block 104, Block 106A, Block 106B, Block 107A, Block 107B, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115A, Block 115B, Block 116A, Block 116B, Block 117, Block 118, Block 119A, Block 119B, Block 120, Block 122, Block 123, Block 124, Block 125A, Block 125B, Block 126A, Block 126B, Block 127, Block 128A, Block 128B, Block 129A, Block 129B, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136; Block Group 3, Block Group 4, Block Group 5, Block Group 6: Block 602, Block 603, Block 604, Block 605, Block 610, Block 614; Memorial Hall *, Myrtle *: Tract 0316: Block Group 4: Block 414A, Block 414C, Block 415, Block 416, Block 417B, Block 417D, Block 418, Block 419; Tract 0318: Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 523, Block 524, Block 525; Ranlo *: Tract 0303: Block Group 5: Block 502B, Block 505D; Tract 0310.01: Block Group 1: Block 101A, Block 102A, Block 103; Tract 0313.01: Block Group 1, Block Group 2: Block 201A, Block 201B, Block 202, Block 203, Block 204A, Block 204B, Block 205A, Block 205B, Block 205C, Block 206, Block 207, Block 208A, Block 208B, Block 209B, Block 209C, Block 210,

Block 211B, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219; Tract 0313.02: Block Group 1: Block 104B, Block 105A, Block 105B, Block 106B, Block 107B, Block 110B; Block Group 2: Block 201B, Block 202, Block 203, Block 204, Block 205B, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217B, Block 217C, Block 220B; Tract 0314: Block Group 5: Block 512B, Block 521B, Block 522B; Robinson *, Sherwood *, South Gastonia *, Woodhill *: Tract 0314: Block Group 1: Block 101, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119; Tract 0320: Block Group 1: Block 120; Block Group 3: Block 301, Block 303, Block 304, Block 305, Block 306, Block 307, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 349, Block 350, Block 351, Block 352, Block 353, Block 354; Victory *, Lucia *, Mt. Holly #1 *, Mt. Holly #2 *, Stanley #1 *, Stanley #2 *, Belmont #1 *, Belmont #2 *: Tract 0323.01: Block Group 1: Block 102, Block 103, Block 104, Block 106, Block 107A, Block 113, Block 114A, Block 114B, Block 114C, Block 114D, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120C, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128A, Block 128B, Block 129, Block 130A, Block 130B, Block 130C, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136; Block Group 2: Block 201A, Block 201D, Block 202B, Block 208, Block 209, Block 210, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218; Block Group 3; Tract 0323.02: Block Group 1: Block 101B, Block 102, Block 105, Block 106, Block 107, Block 108 Block 109, Block 110A, Block 110B, Block 110C, Block 111A, Block 111B, Block 112A, Block 112B, Block 113, Block 114, Block 115, Block 116A, Block 116B, Block

116C, Block 116D, Block 117A, Block 117B, Block 118, Block 119A, Block 119B, Block 120A, Block 120B, Block 121, Block 122, Block 123, Block 124, Block 125; Block Group 2, Block Group 3: Block 301A, Block 301B, Block 301C, Block 302A, Block 302B, Block 303, Block 304A, Block 304B, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313A, Block 313B, Block 314, Block 315, Block 316A, Block 316B, Block 317A, Block 317B, Block 318A, Block 318B, Block 318C; Belmont #3 *: Tract 0310.01: Block Group 3: Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 312A, Block 312B, Block 312C, Block 312D, Block 313A, Block 313B; Tract 0310.02: Block Group 3: Block 313B, Block 314, Block 315; Block Group 4; Tract 0312: Block Group 1: Block 101A, Block 101B, Block 101C, Block 101D, Block 102A, Block 102B, Block 102C, Block 103, Block 104, Block 105, Block 106A, Block 106B, Block 106C, Block 107, Block 108, Block 109, Block 110, Block 111A, Block 111B, Block 112A, Block 112B, Block 112C, Block 113, Block 114, Block 115, Block 116A, Block 116B, Block 117, Block 118, Block 119A, Block 119B, Block 120, Block 121; Block Group 2: Block 202A, Block 202B, Block 202C, Block 203, Block 204, Block 205; Block Group 3: Block 301, Block 303; Catawba Heights *, Cramerton *, Lowell *: Tract 0313.01: Block Group 2: Block 209A, Block 211A; Tract 0313.02: Block Group 1: Block 101A, Block 103, Block 104A, Block 106A, Block 107A, Block 108, Block 109, Block 110A, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121A, Block 122, Block 123, Block 124, Block 125A, Block 128A, Block 129A; Block Group 2: Block 201A, Block 220A, Block 221, Block 222, Block 223, Block 224; Block Group 3: Block 301A, Block 301B, Block 302A, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block

321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330A, Block 331A, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343, Block 344, Block 345, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351, Block 352; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 412A, Block 415C, Block 416, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426; Tract 0322: Block Group 1: Block 105A, Block 107A, Block 112, Block 115, Block 116A; Block Group 2: Block 209B, Block 213, Block 214, Block 215A, Block 216A, Block 217B, Block 221B, Block 223; McAdenville *: Tract 0310.01: Block Group 1: Block 101C, Block 105B, Block 106B, Block 107; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 311; Tract 0313.02: Block Group 1: Block 101B, Block 102, Block 121B, Block 125B, Block 126, Block 127, Block 128B, Block 129B, Block 130, Block 131A, Block 131B, Block 132A, Block 132B; Block Group 3: Block 301C, Block 302B, Block 330B; Tract 0322: Block Group 1: Block 101, Block 102A, Block 102B, Block 103, Block 104B, Block 105B, Block 105C, Block 106, Block 107B, Block 110, Block 111, Block 113, Block 114, Block 116B, Block 116C, Block 117, Block 118, Block 119A, Block 119B, Block 120, Block 121B, Block 122; Block Group 2: Block 201A, Block 201B, Block 201C, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209C, Block 210, Block 218, Block 225, Block 226; Tract 0323.01: Block Group 1: Block 108A, Block 111, Block 112A, Block 120B, Block 121A; Tract 0325.01: Block Group 5: Block 501; New Hope *, Southpoint *, Union *; Mecklenburg County: Charlotte Pct.

1 *, Charlotte Pct. 4, Charlotte Pct. 5 *, Charlotte Pct. 6 *, Charlotte Pct. 7 *, Charlotte Pct. 8 *, Charlotte Pct. 9 *: Tract 0003: Block Group 1: Block 103, Block 104, Block 105, Block 107, Block 109, Block 110; Tract 0004: Block Group 5: Block 514; Tract 0027: Block Group 3: Block 304; Tract 0035: Block Group 1: Block 101, Block 102, Block 103, Block 107, Block 108, Block 109; Block Group 2, Block Group 3: Block 301, Block 302, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 414; Charlotte Pct. 10 *, Charlotte Pct. 15 *: Tract 0010: Block Group 1: Block 101, Block 103, Block 105, Block 107, Block 108, Block 109, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119; Block Group 2: Block 201, Block 206, Block 207, Block 208, Block 214, Block 218; Block Group 3: Block 307, Block 308, Block 309, Block 313, Block 314, Block 315, Block 317; Tract 0011: Block Group 1: Block 103, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 114, Block 117, Block 120; Block Group 4: Block 408; Tract 0012: Block Group 3: Block 305, Block 306, Block 308Y, Block 308Z; Charlotte Pct. 18 *, Charlotte Pct. 19 *, Charlotte Pct. 20 *, Charlotte Pct. 21 *, Charlotte Pct. 29 *, Charlotte Pct. 32 *, Charlotte Pct. 33 *, Charlotte Pct. 34 *, Charlotte Pct. 35 *, Charlotte Pct. 36 *, Charlotte Pct. 37 *, Charlotte Pct. 38 *, Charlotte Pct. 44 *, Charlotte Pct. 45 *, Charlotte Pct. 47 *, Charlotte Pct. 48 *, Charlotte Pct. 49 *, Charlotte Pct. 50 *, Charlotte Pct. 51 *, Charlotte Pct. 57 *, Charlotte Pct. 58 *, Charlotte Pct. 59 *, Charlotte Pct. 61 *, Charlotte Pct. 62 *, Charlotte Pct. 63 *, Charlotte Pct. 64 *, Charlotte Pct. 65 *, Charlotte Pct. 66 *, Charlotte Pct. 67 *, Charlotte Pct. 68 *, Charlotte Pct. 69 *, Charlotte Pct. 70 *, Charlotte Pct. 71 *, Charlotte Pct. 72 *, Charlotte

Pct. 73 *, Charlotte Pct. 74 *, Charlotte Pct. 75 *, Charlotte Pct. 76 *, Charlotte Pct. 77 *: Tract 0058.06: Block Group 1: Block 113; Tract 0059.03: Block Group 3: Block 340A, Block 340B, Block 341A, Block 341B, Block 342, Block 344A, Block 344B, Block 345, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351, Block 352, Block 353, Block 354, Block 355, Block 356, Block 357, Block 361; Charlotte Pct. 79 *, Charlotte Pct. 80 *, Charlotte Pct. 81 *, Charlotte Pct. 83 *, Charlotte Pct. 84 *, Charlotte Pct. 85 *, Charlotte Pct. 86 *, Charlotte Pct. 87 *, Charlotte Pct. 88 *, Charlotte Pct. 89 *, Charlotte Pct. 90 *, Charlotte Pct. 91, Charlotte Pct. 92 *, Charlotte Pct. 93 *, Charlotte Pct. 94 *, Charlotte Pct. 95 *, Charlotte Pct. 96 *, Charlotte Pct. 97 *: Tract 0031.04: Block Group 2: Block 204, Block 205, Block 216, Block 217, Block 218, Block 219; BER *: Tract 0059.01: Block Group 3: Block 301A, Block 301B, Block 302A, Block 302B, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332A, Block 332B, Block 333, Block 334, Block 335, Block 336A, Block 336B, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342; Block Group 4: CCK *, COR *: Tract 0063: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108B, Block 109, Block 110; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 208, Block 209, Block 212; Tract 0064: Block Group 2: Block 217A, Block 217B, Block 217C, Block 217D, Block 217E, Block 217J, Block 217L, Block 228 Block 229A, Block 229B, Block 229C, Block 230, Block 231B, Block 232B, Block 233A, Block 233C, Block 234, Block 235; Block Group 3: Block 311, Block 312, Block 313, Block 314, Block 315, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324; Block Group 4: Block 401A,

Block 401D, Block 401F, Block 402A, Block 402B, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410; Block Group 5: Block 501D, Block 504A, Block 504B, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513A, Block 513B, Block 514A, Block 514B, Block 514C, Block 514D, Block 515A, Block 515B, Block 516A, Block 516B, Block 517, Block 518A, Block 518B, Block 519, Block 520A, Block 520B, Block 520C, Block 521B, Block 524A; Block Group 6: Block 603A, Block 606, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622; CO1 *, CO2 *: Tract 0015.01: Block Group 1: Block 110B; Block Group 2: Block 201; Tract: 0056.01: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110; Block Group 2: Block 201, Block 202; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333; Block Group 4: Block 405, Block 406, Block 419, Block 420, Block 421, Block 422B, Block 423; Tract 0056.02: Block Group 1: Block 105, Block 106; HUN *; Tract 0063: Block Group 1: Block 108A, Block 111, Block 112, Block 113, Block 114A, Block 114B, Block 117, Block 118, Block 119; Block Group 2: Block 206, Block 207, Block 210, Block 211, Block 213, Block 214A, Block 214B, Block 214C, Block 215A, Block 215B, Block 216, Block 217; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305B, Block 308, Block 309, Block 310, Block 311, Block 315A, Block 315C, Block 316, Block 317, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331; Block Group 4: Block 401, Block 402A, Block 402B,

Block 402C, Block 404A, Block 404B, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414A, Block 414B, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443, Block 444, Block 445, Block 446; Tract 0064: Block Group 5: Block 521A: LEM *, LC1 - North, LC2: Tract 0061: Block Group 1: Block 108B; Block Group 5, Block Group 9; LC1 - South: Tract 0061: Block Group 4: Block 409, Block 410, Block 411, Block 420, Block 421, Block 422, Block 432, Block 471; MC1, MC2: Tract 0051.01: Block Group 1: Block 101; Tract 0054.01: Block Group 3: Block 308, Block 309, Block 310, Block 311, Block 312, Block 316, Block 318, Block 320, Block 325, Block 326; Tract 0054.02: Block Group 1: Block 101A, Block 101B, Block 101C, Block 102A, Block 102B, Block 102C, Block 102D, Block 102E, Block 103, Block 104, Block 105, Block 106B, Block 107A, Block 107B, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114A, Block 114B, Block 114C, Block 114D, Block 114E, Block 114F, Block 114G, Block 115, Block 116, Block 117, Block 123, Block 19A, Block 129D, Block 129F, Block 134, Block 135, Block 136; Tract 0055.01: Block Group 1: Block 101, Block 102, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145A, Block 145B, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153; Block Group 2: Block 213, Block 214, Block 216, Block

217B, Block 218, Block 219; Block Group 3: Block 301, Block 312B; Tract 0061: Block Group 1: Block 101, Block 102, Block 103, Block 130, Block 131B, Block 132B; Block Group 4: Block 401, Block 402, Block 413, Block 414, Block 415, Block 416, Block 417, Block 478, Block 479, Block 480, Block 481; MA1 *, MA2 *, MA3 *, MA4 *, Charlotte Pct. 102, MH1 *, MH2 *, MH3 *, OAK, PC1 *, PC2 *, PVL *, PR1, PR2, PR3, Charlotte Pct. 93 Part, SC1, SC2, Charlotte Pct. 100 *, Charlotte Pct. 105.

District 10: Alexander County; Avery County; Buncombe County: Broad River *, Fairview *, Limestone #2 *; Burke County: Drexel #3 *, Icard #1 *, Icard #2 *, Icard #3 *, Icard #4 *, Icard #5 *, Jonas Ridge *, Linville #1 *, Lovelady #1 *, Lovelady #2 *, Lovelady #3 *, Lovelady #4 *, Lower Fork *, Silver Creek #2 *, Upper Creek *, Upper Fork *; Caldwell County: Globe *, Hudson #1 *, Hudson #2 *, Johns River *, Gamewell #1 *, Gamewell #2 *, Littrle River *, Lovelady-Rhodhiss *, Lovelady #2 *, Sawmills *, Lower Creek #2 *, Lower Creek #3 *, Mulberry *, North Catawba *, Patterson *, Wilson Creek *; Catawba County, Davie County: Calahaln township, Clarksville township, Farmington township; Forsyth County: Bethania #2 *, Clemmonsville #1 *, Clemmonsville #2 *, Clemmonsville #3 *, Lewisville #1 *, Lewisville #2 *, Lewisville #3 *, Old Richmond *, Old Town #3 *, South Fork #2 *, South Fork #3 *, Vienna #1 *, Vienna #2 *, Vienna #3 *, Calvary Baptist Church *, Jefferson Elementary School *, Messiah Moravian Church *, Sherwood Forest Elementary School *; Henderson County: Fletcher *, Hoopers Creek *, Park Ridge *; Iredell County: Bethany *, Chambersburg *: Tract 0606: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106A, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118A, Block 118B, Block 122, Block 145, Block 146, Block 147, Block 148; Block Group 2, Block Group 3: Block 301A, Block 302, Block 303A; Tract 0607: Block Group 2: Block

223E, Block 224A, Block 225A, Block 226A; Block Group 3: Block 327A, Block 330A; Block Group 4: Block 422A, Block 423A, Block 425A, Block 426, Block 429A, Block 430A, Block 431A, Block 434A, Block 436, Block 437; Block Group 5: Coddle Creek #4 *: Tract 0614: Block Group 8: Block 823, Block 824, Block 825, Block 826, Block 827A, Block 829, Block 830, Block 831, Block 832, Block 833A, Block 836A, Block 837A, Block 838, Block 840, Block 841, Block 842; Tract 0616: Block Group 3: Block 312, Block 313, Block 314; Block Group 4: Block 402, Block 403A, Block 403B, Block 403C, Block 403D, Block 404A, Block 404B, Block 404C, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426A, Block 426B; Block Group 5: Block 501A, Block 501B, Block 502A, Block 502B, Block 503A, Block 503B, Block 504, Block 505, Block 506A, Block 508, Block 509, Block 510, Block 511; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607A, Block 607B, Block 607C, Block 607D, Block 607E, Block 608, Block 609A, Block 609C, Block 609D, Block 610A, Block 611A, Block 611B, Block 612A, Block 612B, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 624, Block 625, Block 626, Block 627, Block 628A; Concord *, Davidson *, Eagle Mills *, Fallstown *, New Hope *, Olin *, Sharpesburg *, Shiloh *, Statesville #1 *, Tract 0610: Block Group 4: Block 401A, Block 402A, Block 429A, Block 430, Block 431, Block 432, Block 433A, Block 434; Statesville #2 *, Statesville #4 *, Statesville #5 *; Tract 0603: Block Group 1: Block 105; Tract 0604: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 121, Block 122, Block 126, Block 127, Block

128, Block 132, Block 133, Block 134; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 207, Block 208, Block 209, Block 210, Block 216, Block 217, Block 218, Block 219, Block 220, Block 222, Block 223, Block 225; Block Group 3: Block 304, Block 305, Block 306A, Block 307A, Block 309A, Block 317A; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408A, Block 408B, Block 409A, Block 409B, Block 410A, Block 410B, Block 411, Block 412A, Block 412B, Block 413A, Block 413B, Block 414A, Block 414C, Block 414D, Block 414E, Block 415B, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426B, Block 427B, Block 429B, Block 430B, Block 431A, Block 431B, Block 432, Block 433, Block 434, Block 435, Block 436A, Block 436B; Tract 0605; Block Group 2: Block 201, Block 202B, Block 203, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221; Block Group 3: Block 325, Block 326; Tract 0610: Block Group 4: Block 409A, Block 435B, Block 437A, Block 443, Block 444, Block 445, Block 446; Tract 0611; Block Group 3: Block 321A, Block 322B, Block 323A, Block 323D, Block 324, Block 325, Block 326A, Block 326C; Turnersburg *, Union Grove *; Lincoln County, McDowell County: Brackett township, Crooked Creek township, Glenwood township, Higgins township, Montford Cove township; Mitchell County, Polk County: Cooper Gap township; Rutherford County: Camp Creek township: Tract 9601: Block Group 1: Block 102A, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 138, Block 139, Block 141, Block 142, Block 144; Tract 9602: Block Group 1: Block 101A, Block 119, Block 120, Block 121, Block 122, Block 123,

Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 150A, Block 151, Block 180, Block 186, Block 191; Chimney Rock township, Tract 9602: Block Group 1: Block 107A, Block 108, Block 193, Block 194, Block 195, Block 196, Block 197; Golden Valley township, Green Hill township, Logan Store township, Morgan township, Wilkes County: Antioch *, Brushy Mountain *, Edwards No. 1 *, Edwards No. 2 *, Edwards No. 3 *, Elk No. 1 *, Jobs Cabin *, Lewis Fork *, Lovelace *, Mulberry No. 1 *, Mulberry No. 2 *, New Castle *, No. Wilkesboro-2 *, Reddies River-1 *, Reddies River-2 *, Rock Creek *, Somers *, Stanton *, Traphill No. 1 *, Traphill No. 2 *, Union *, Walnut Grove *, Wilkesboro No. 2 *; Yadkin County.

District 11: Buncombe County: Asheville #1 *, Asheville #2 *, Asheville #3 *, Asheville #4 *, Asheville #5 *, Asheville #6 *, Asheville #7 *, Asheville #8 *, Asheville #9 *, Asheville #10 *, Asheville #11 *, Asheville #12 *, Asheville #13 *, Asheville #14 *, Asheville #15 *, Asheville #16 *, Asheville #17 *, Asheville #18 *, Asheville #19 *, Asheville #20 *, Asheville #21 *, Beaverdam *, Biltmore *, Haw Creek *, Hazel #1 *, Hazel #2 *, Reynolds *, Woodfin *, Averys Creek *, Black Mountain #1 *, Black Mountain #2 *, Black Mountain #3 *, Black Mountain #4 *, Flat Creek *, French Broad *, Lower Hominy #1 *, Lower Hominy #2 *, Lower Hominy #3 *, Upper Hominy #1 *, Upper Hominy #2 *, Ivy #1 *, Ivy #2 *, Leicester *, West Buncombe *, Limestone #1 *, Riceville *, Swannanoa #1 *, Swannanoa #2 *, Reems Creek *, Weaverville #1 *, Weaverville #2 *, Sandy Mush *; Cherokee County; Clay County; Cleveland County: Holly Springs *, Mrb-Yo *, Shelby #1 *, Shelby #2 *, Shelby #3 *, Shelby #4 *, Shelby #5 *, Shelby #6 *, Shelby #7 *, Lattimore *, Polkville *, Lawndale *; Graham County: Haywood County; Henderson

County: North Blue Ridge *, South Blue Ridge *, Clear Creek *, Bowmans Bluff *, Crab Creek *, Bat Cave *, Edneyville *, Green River *, Raven Rock *, Armory *, Flat Rock *, Grimesdale *, Hendersonville #1 *, Hendersonville #2 *, Hendersonville #3 *, Horse Shoe *, Laurel Park *, Long John Mountain *, Moores Grove *, Northeast *, Northwest *, Pisgah View *, Rugby *, Southeast *, Southwest *, Valley Hill *, Northwest Non-contiguous *, Brickton, Brickton Noncontiguous, Etowah *, North Mills River *, South Mills River *; Jackson County; McDowell County: Dysartsville township, Marion township, Nebo township, North Cove township, Old Fort township; Macon County; Madison County; Polk County: Columbus township, Greens Creek township, Saluda township, Tryon township, White Oak township; Rutherford County: Camp Creek township: Tract 9601: Block Group 1: Block 140A, Block 143; Block Group 2: Block 201A, Block 202, Block 203A, Block 207A; Tract 9602: Block Group 1: Block 145, Block 146, Block 147, Block 148, Block 149, Block 177, Block 178, Block 179A, Block 181, Block 182, Block 183A, Block 184A, Block 185, Block 187, Block 188, Block 189, Block 190, Block 192; Block Group 3: Block 301, Block 302A, Block 305A, Block 306A; Colfax township, Cool Spring township, Duncans Creek township, Gilkey township, High Shoals township, Rutherfordton township, Sulphur Springs township, Union township; Swain County; Transylvania County; Yancey County.

District 12: Alamance County: North Burlington *: Tract 0201.01: Block Group 1: Block 101; Tract 0202: Block Group 1: Block 101, Block 102, Block 103, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 113; Tract 0203: Block Group 1: Block 107, Block 108, Block 109, Block 110; Block Group 2: Block 201, Block 202, Block 208; Tract 0204: Block Group 3: Block 304A, Block 304B, Block 306A, Block 306B, Block 307A, Block 307B, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block

316A, Block 316B, Block 317B, Block 318, Block 319, Block 337, Block 338, Block 339, Block 340; Block Group 4, Block Group 6; Tract 0205: Block Group 8: Block 804, Block 816, Block 817, Block 819; Burlington #7 * Faucette *, Haw River *, Morton *, Pleasant Grove *; Davidson County: Abbotts Creek *: Tract 0601: Block Group 1: Block 115, Block 116, Block 117, Block 118, Block 119; Block Group 2: Block 210, Block 215, Block 216, Block 217, Block 229, Block 237, Block 244, Block 245, Block 246, Block 247, Block 249, Block 251; Block Group 9: Block 913, Block 914; Cotton *: Tract 0615: Block Group 4: Block 435B, Block 439C, Block 441B, Block 442B, Block 444B, Block 445B, Block 446B, Block 447, Block 448, Block 454, Block 455, Block 456; Tract 0618.01: Block Group 2: Block 209A, Block 209B, Block 210, Block 212A, Block 212B, Block 226; Block Group 3: Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330A, Block 330B; Block Group 4: Block 408, Block 409, Block 410, Block 411, Block 412, Block 413; Block Group 5: Block 537, Block 538, Block 539, Block 540, Block 546, Block 556, Block 557, Block 558; Lexington No. 1 *: Tract 0612: Block Group 3: Block 306, Block 308, Block 323, Block 376, Block 377, Block 378, Block 379, Block 380, Block 381C; Tract 0614: Block Group 1: Block 101B, Block 107C; Block Group 2: Block 227B, Block 228B; Block Group 3: Block 301B, Block 302, Block 305, Block 306B; Block Group 4: Block 401B, Block 401C, Block 401D, Block 402D, Block 402E, Block 403, Block 404, Block 405B, Block 410B, Block 411D, Block 412B; Ward No. 1 *, Ward No. 2 *: Tract 0615: Block Group 1: Block 114, Block 115, Block 116, Block 117, Block 118, Block 141, Block 142, Block 143, Block 144, Block 155, Block 156; Block Group 4: Block 405, Block 406, Block 413, Block 414, Block 415, Block 416, Block 417, Block 421, Block 422; Tract 0616: Block Group 1: Block 104, Block 110, Block 111, Block 112; Ward No. 4 *, Ward No. 5 *, Ward No. 6 *: Tract 0614: Block

Group 3: Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 321, Block 322, Block 337, Block 338, Block 339, Block 341; Tract 0615: Block Group 1: Block 119, Block 129, Block 130, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153, Block 154; Block Group 2: Block 201, Block 202, Block 203; Thomasville No. 1 *, Thomasville No. 2 *, Thomasville No. 3 *, Thomasville No. 4 *: Tract 0608: Block Group 2: Block 202; Block Group 3: Block 303, Block 304, Block 305, Block 307, Block 308, Block 309, Block 310, Block 311A, Block 339A, Block 342A, Block 342B, Block 343, Block 344A, Block 345A; Tract 0609: Block Group 5: Block 516, Block 517; Block Group 9: Block 906A; Thomasville No. 7 *: Tract 0605: Block Group 1: Block 118, Block 120, Block 121, Block 122, Block 123, Block 124, Block 129; Block Group 9: Block 913, Block 914, Block 916, Block 918, Block 919, Block 920, Block 921, Block 922; Tract 0608: Block Group 3: Block 306B, Block 306C, Block 306D, Block 311B, Block 312, Block 313, Block 314B, Block 322, Block 323B, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339B, Block 340, Block 341B, Block 344B, Block 345B, Block 346, Block 347, Block 348; Thomasville No. 8 *: Tract 0606: Block Group 4: Block 408, Block 409, Block 410, Block 411, Block 412, Block 415, Block 416, Block 417; Block Group 9: Block 903, Block 904B, Block 958B; Durham County: Bragtown School *, Burton School *, C.C. Spaulding School *, Durham Co. Main Library *, Durham High School *, Forest Hills Club House *, Holloway Street School *, Holton Junior High School *, Lakewood School *, Moose Lodge *, Morehead School *, North Durham School Building *, Pearson School *, Pearsontown School *, R.N. Harris *, Shephard Junior H.S. *, St. Stephens/

Parish Hall *: Tract 0020.07: Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 407, Block 408, Block 409; Watts Street School *, Weaver Street Community Center *, White Rock Baptist Church *, Y.E. Smith School *, Campus Precinct *, Homestead Heights Baptist *, Carrington Junior H.S. *, Northern H.S. *, DNOE VALLEY SCHOOL NONCONTIGUOUS *, Mangum School *, Rougemont United Methodist *, Gorman Ruritan Club *; Forsyth County: Abbotts Creek #1 *, Abbotts Creek #2 *, Broadbay #1 *, Broadbay #2 *, Ashley Middle School *, Carver High School *, East Winston Library *, Forest Pk. Elementary School *, 14th Street Recreation Center *, Happy Hill Recreation Center *, Kennedy Middle School *, Lowrance Middle School *, M. L. King Recreation Center *, Mt. Sinai Church *, St. Andrews United Methodist *, Winston Lake Family YMCA *; Gaston County: Bessemer City #2 *: Tract 0318: Block Group 1: Block 101A; Firestone *: Tract 0329: Block Group 1: Block 106, Block 107, Block 108; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218; Tract 0330: Block Group 1: Block 121, Block 122, Block 123, Block 124, Block 125, Block 130, Block 132; Flint Groves *: Tract 0313.02: Block Group 2: Block 218A; Tract 0314: Block Group 1: Block 120; Block Group 4: Block 417; Tract 0321: Block Group 3: Block 305, Block 318, Block 319, Block 321, Block 322, Block 323, Block 324, Block 334; Health Center *: Tract 0315: Block Group 6: Block 601, Block 606, Block 607, Block 608, Block 609, Block 611, Block 612, Block 613; Tract 0319: Block Group 2: Block 214, Block 215, Block 221, Block 222; Block Group 3: Highland *, Myrtle *: Tract 0318: Block Group 1: Block 101B, Block 101D, Block 101E, Block 109, Block 110; Block Group 2, Block Group 3, Block Group 4, Block Group 5: Block 518, Block 519, Block 520, Block 521, Block 522, Block 526, Block 527, Block 528, Block 529, Block

530; Tract 0331: Block Group 1: Block 104, Block 105B; Ranlo *: Tract 0313.02: Block Group 2: Block 218B, Block 218C; Block Group 4: Block 413D, Block 414B; Tract 0321: Block Group 3: Block 338D; Woodhill *: Tract 0321: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 108, Block 109, Block 111, Block 112, Block 113, Block 114, Block 115, Block 121, Block 122, Block 123; Belmont #2 *: Tract 0323.01: Block Group 1: Block 101, Block 105, Block 107B, Block 108B, Block 109, Block 110A, Block 110B, Block 121B; Tract 0323.02: Block Group 1: Block 101A, Block 103, Block 104; Block Group 3: Block 319; Belmont #3 *: Tract 0312: Block Group 1: Block 116C; Lowell *: Tract 0313.02: Block Group 3: Block 353A, Block 354, Block 355, Block 356, Block 357; Block Group 4: Block 411, Block 413B, Block 417 Block 418; Tract 0322: Block Group 1: Block 104A, Block 108, Block 109; McAdenville *: Tract 0310.01: Block Group 2: Block 219A, Block 219B, Block 220A, Block 220B; Tract 0313.02: Block Group 3: Block 331B, Block 331C, Block 332, Block 353B; Tract 0323.01: Block Group 1: Block 112B; Guilford County: GB-01 *, GB-02 *, GB-03 *, GB-04 *, GB-05 *, GB-06 *, GB-07 *, GB-08 *, GB-09 *, GB-15 *: Tract 0115: Block Group 1: Block 103, Block 104, Block 105, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203Y, Block 203Z, Block 206, Block 207, Block 208, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218; Block Group 3, Block Group 4, Block Group 5; Tract 0116.01: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 107; Block Group 2: Block 202, Block 203, Block 204, Block 205, Block 214, Block 218, Block 221; Tract 0126.04: Block Group 3: Block 303, Block 304; GB-19 *, Tract 0154: Block Group 6: Block 605A; GB-23 *, GB-24A *, GB-25 *, GB-26A *, GB-29 *, GB-30 *, GB-33 *, GB-36 *, GB-42 *, GB-44 *, GB-45 *, Tract 0128.03: Block Group 2: Block 217A, Block 227A, Block 228, Block 229, Block 230Y, Block 230Z, Block 231, Block 234A; HP-03 *, HP-05 *, HP-06 *, HP-07 *,

HP-11 *, HP-12 *, HP-15 *, HP-17 *, HP-22 *, Gibsonville *, Jamestown-1 *: Tract 0164.02: Block Group 4: Block 401Y, Block 403B, Block 404, Block 411Y, Block 411Z, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 436, Block 437, Block 438B, Block 439B, Block 440, Block 441, Block 442; Tract 0165.01: Block Group 2: Block 212C, Block 213A; Jamestown-2 *: Tract 0126.09: Block Group 4: Block 414C; Tract 0165.01: Block Group 2: Block 212D, Block 213B; Tract 0165.02: Block Group 2: Block 206, Block 207, Block 208, Block 209, Block 210, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217A, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 225, Block 226, Block 227; Block Group 3: Block 301, Block 302, Block 312, Block 313, Block 314; Block Group 4: Block 407B; North Jefferson *: Tract 0111.02: Block Group 4: Block 422B; Tract 0127.06: Block Group 2: Block 201B; Tract 0128.03: Block Group 1: Block 107B; Block Group 2: Block 201C, Block 202C, Block 205B, Block 206, Block 207, Block 213, Block 214, Block 217B, Block 224, Block 234B, Block 235; Block Group 3: Block 301, Block 303, Block 306; Block Group 9: Block 901, Block 902B, Block 904, Block 905B, Block 906; Tract 0153: Block Group 1: Block Block 115A, Block 117, Block 118A, Block 120A, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132; Block Group 3: Block 303A, Block 309, Block 310, Block 311, Block 312, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324; North Sumner *, South Washington *: Tract 0152: Block Group 1: Block 110, Block 111, Block 115, Block 122, Block 123, Block 124, Block 131, Block 132B, Block 133B, Block 134B, Block 136B; GB-24B *, GB-26B *, GB-35C *; Iredell County: Barringer *: Tract 0612: Block Group 3: Block 317A, Block 317C, Block 321A, Block

322A, Block 323A; Block Group 4: Block 401; Block 402A, Block 402B, Block 402F, Block 410A, Block 410C, Block 411A, Block 412A, Block 412C, Block 412D, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422A, Block 422B, Block 423A, Block 423B, Block 424, Block 425; Block Group 5: Block 501C, Block 507A, Block 508, Block 509, Block 510, Block 511; Block Group 9: Block 901A, Block 902A, Block 904A; Tract 0613: Block Group 1: Block 101A; Block Group 2: Block 201A, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 219, Block 220A, Block 221A, Block 222, Block 223, Block 224A; Block Group 3: Block 309A, Block 310A, Block 312A, Block 313, Block 314A, Block 315A, Block 316A, Block 322, Block 323; Block Group 4: Block 407A, Block 408; Chambersburg *: Tract 0606: Block Group 3: Block 323D, Block 324A, Block 325A, Block 327, Block 328, Block 329, Block 330A, Block 331, Block 332; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408B, Block 416A, Block 416C, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506A, Block 506B, Block 507A, Block 507C, Block 517A, Block 518, Block 519, Block 520; Tract 0607: Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 612; Tract 0613: Block Group 3: Block 310B, Block 311A, Block 312B, Block 317; Block Group 4: Block 407B; Coddle Creek #2 *, Coddle Creek #4 *: Tract 0614: Block Group 8: Block 820, Block 821, Block 822, Block 843, Block 844, Block 845, Block 846, Block 847, Block 852; Tract 0616: Block Group 2: Block 214; Block Group 3: Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 315, Block 316; Block Group 4: Block 401A, Block 401B, Block

401C, Block 401D, Block 401E; Block Group 5: Block 512, Block 513A, Block 513B, Block 513C, Block 513D, Block 513E, Block 514; Block Group 7: Block 714, Block 718, Block 719; Cool Springs *, Statesville #3 *, Statesville #5 *: Tract 0604: Block Group 1: Block 118, Block 119, Block 120, Block 123, Block 124, Block 125, Block 129, Block 130, Block 131, Block 135, Block 136, Block 137, Block 138; Block Group 2: Block 205, Block 206, Block 214, Block 215, Block 221, Block 224; Block Group 3: Block 301; Statesville #6 *; Mecklenburg County: Charlotte Pct. 2 *, Charlotte Pct. 3, Charlotte Pct. 9 *: Tract 0003: Block Group 1: Block 101, Block 102, Block 106, Block 108; Block Group 2; Tract 0004: Block Group 5: Block 508, Block 513, Block 518, Block 519, Block 520, Block 521; Tract 0035: Block Group 3: Block 303, Block 304; Block Group 4: Block 413; Charlotte Pct. 11 *, Charlotte Pct. 12 *, Charlotte Pct. 13 *, Charlotte Pct. 14 *, Charlotte Pct. 15 *: Tract 0010: Block Group 1: Block 104, Block 106; Block Group 2: Block 209, Block 210, Block 211, Block 217, Block 219, Block 220; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 310, Block 318, Block 319; Tract 0011: Block Group 1: Block 111, Block 118, Block 119; Block Group 4: Block 405, Block 406, Block 407, Block 409, Block 411, Block 412; Charlotte Pct. 16 *, Charlotte Pct. 17 *, Charlotte Pct. 22 *, Charlotte Pct. 23 *, Charlotte Pct. 24 *, Charlotte Pct. 25 *, Charlotte Pct. 26 *, Charlotte Pct. 27 *, Charlotte Pct. 28 *, Charlotte Pct. 30 *, Charlotte Pct. 31 *, Charlotte Pct. 39 *, Charlotte Pct. 40 *, Charlotte Pct. 41 *, Charlotte Pct. 42 *, Charlotte Pct. 43 *, Charlotte Pct. 46 *, Charlotte Pct. 52 *, Charlotte Pct. 53 *, Charlotte Pct. 54 *, Charlotte Pct. 55 *, Charlotte Pct. 56 *, Charlotte Pct. 60, Charlotte Pct. 77 *: Tract 0038.04: Block Group 2; Tract 0058.06: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106A, Block 107, Block 108A, Block 109, Block 110, Block 111A, Block 124A, Block 125, Block 126, Block 127, Block 128A, Block 128B, Block 129,

Block 130; Tract 0059.03: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 343, Block 386, Block 387; Charlotte Pct. 78 *, Charlotte Pct. 82 *, Charlotte Pct. 97 *: Tract 0058.07: Block Group 1, Block Group 2: Block 201A, Block 201B, Block 202B; Charlotte Pct. 98 *, BER *: Tract 0059.01: Block Group 2: Block 208, Block 209, Block 221B, Block 225, Block 226, Block 227, Block 228, Block 229; Block Group 3: Block 312, Block 313, Block 314; COR *: Tract 0062.02: Block Group 2: Block 201A, Block 201B, Block 202A, Block 202B, Block 204A, Block 204B, Block 204C, Block 205A, Block 205B, Block 208, Block 209, Block 217, Block 218, Block 219, Block 220, Block 221; Tract 0064: Block Group 5: Block 501A, Block 501B, Block 501C, Block 501E, Block 501F, Block 502, Block 503, Block 522, Block 523A, Block 523 B, Block 524B, Block 525; Block Group 6: Block 601A, Block 601B, Block 601C, Block 601E, Block 601G, Block 604, Block 605, Block 607, Block 608, Block 609; DAV *: Tract 0062.01: Block Group 4: Block 401A, Block 402C; Tract 0064: Block Group 1, Block Group 2: Block 201, Block 202, Block 203A, Block 203B, Block 203C, Block 204A, Block 204B, Block 205, Block 206, Block 221; Block Group 3: Block 302, Block 303; Block Group 6: Block 601D, Block 601F, Block 602; HUN *: Tract 0062.02: Block Group 2: Block 225, Block 226, Block 227, Block 228, Block 248, Block 249, Block 250, Block 251, Block 252, Block 294, Block 295A, Block 295B, Block 295C, Block 295D, Block 296, Block 297; Block Group 3: Block 301, Block 302A, Block 302B, Block 303A, Block 303B, Block 334, Block 335A, Block 335B, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 348, Block 349, Block 350, Block 351; Tract 0063: Block Group 1: Block 115, Block 116; Block Group 3: Block 305A, Block 305C, Block 306, Block 307, Block 312, Block 313, Block 314, Block 315B, Block 318A, Block 318B, Block 319, Block 320, Block 321, Block 322; Block Group 4: Block 403A, Block 403B, Block 403C, Block 403D, Block 447, Block

448; LC2: Tract 0054.01: Block Group 3: Block 304, Block 305, Block 306, Block 313, Block 321, Block 322, Block 323, Block 324, Block 330; Block Group 4: Block 401; Tract 0061: Block Group 1: Block 104A, Block 104B, Block 105, Block 106, Block 107, Block 108A, Block 109, Block 110A, Block 110B, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127A, Block 127B, Block 127C, Block 128A, Block 128B, Block 128C, Block 129A, Block 129B, Block 133, Block 134, Block 135; LC1 - South: Tract 0061: Block Group 4: Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 412, Block 418, Block 419; Tract 0062.02: Block Group 3: Block 331, Block 332, Block 343, Block 344, Block 347, Block 352; MC2: Tract 0054.01: Block Group 3: Block 301, Block 302, Block 303, Block 307, Block 314, Block 317, Block 319, Block 328; Tract 0054.02: Block Group 1: Block 106A, Block 129B, Block 129C, Block 129E, Block 130; Tract 0055.01: Block Group 2: Block 217A; Block Group 3: Block 312A, Block 313, Block 314, Block 315, Block 316; Tract 0061: Block Group 1: Block 131A, Block 132A; Charlotte Pct. 16 Part, MC1 part, XMC2 Noncontiguous: Charlotte Pct. 104; Orange County: Carr *: Tract 0108: Block Group 1: Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 155, Block 156, Block 157, Block 194, Block 195, Block 196, Block 197; Cedar Grove *: Tract 0108: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 146, Block 148, Block 191, Block 192, Block 193; Block Group 2: Block 216, Block 217, Block 218; Tolars *: Tract 0108: Block Group 2: Block 211A,

Block 212, Block 213, Block 214, Block 215, Block 219, Block 220, Block 221, Block 222, Block 223A, Block 224A, Block 254A, Block 255, Block 256, Block 257, Block 258, Block 259A, Block 260A, Block 261A, Block 262, Block 263, Block 264, Block 265, Block 266, Block 267, Block 268, Block 269, Block 270, Block 275, Block 276, Block 277A, Block 285A; Caldwell *: Tract 0108: Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211B, Block 223B, Block 224B, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239A, Block 239B, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250, Block 251, Block 252, Block 253, Block 254B, Block 259B, Block 260B, Block 261B, Block 277B, Block 284B, Block 285B, Block 286, Block 287, Block 288, Block 289, Block 290, Block 291, Block 292, Block 293, Block 294, Block 295, Block 296A, Block 296B, Block 297A, Block 297B; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307B, Block 319B, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 341, Block 370, Block 371, Block 372, Block 373, Block 374B; Tract 0109: Block Group 2: Block 201B, Block 201C, Block 201D, Block 201E, Block 202, Block 203, Block 204B; Rowan County: Franklin *: Tract 0505: Block Group 1: Block 101E; Tract 0513.01: Block Group 2: Block 208B; Block Group 3: Block 302; Tract 0513.02: Block Group 3: Block 301, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 321C, Block 321D, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333,

Block 334; Tract 0519: Block Group 2: Block 225A, Block 248A, Block 249, Block 250; East Spender *, Milford Hills *, Spencer *, Trading Ford, West Innes *: Tract 0505: Block Group 2: Block 211, Block 212, Block 213; Block Group 3: Block 311, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 237, Block 238, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335; Tract 0513.02: Block Group 3: Block 321A; East Ward II *, North Ward I *, North Ward II *: Tract 0505: Block Group 1: Block 101B, Block 101C, Block 104, Block 107A, Block 110; Tract 0506: Block Group 1: Block 104A, Block 105, Block 106, Block 107, Block 112, Block 113, Block 114, Block 115, Block 116, Block 119, Block 120, Block 121, Block 122, Block 123, Block 132; West Ward III *, Trading Ford Noncontiguous A. Scotch Irish *, Unity *.

(b) The name and boundaries of townships specified in this section are as they were legally defined and in effect as of January 1, 1980, and recognized in the 1980 United States Census.

(b) The names and boundaries of townships, precincts (voting tabulation districts), tracts, block groups, and blocks, specified in this section are as they were legally defined and recognized in the 1990 U.S. Census, except as provided in subsection (c) of this section. Boundaries are as shown on the IVTD Version of the United States Bureau of the Census 1990 TIGER Files, with such modifications as made by the Legislative Services Office and shown on its computer database as of May 1, 1991, to reflect census blocks divided by prior district boundaries, and precincts added or modified as outlined in subsection (c) of this section.

(c) For Guilford County, precinct boundaries for High Point Precincts 20, 23, and 24 are as modified by the

Guilford County Board of Elections and shown on the Legislative Service Office computer database as of May, 1991.

For Mecklenburg County, precinct boundaries are as altered by the Mecklenburg County Board of Elections as reported to the Legislative Services Office and shown on the Legislative Services Office computer database as of May 1, 1991.

For Wake County:

(1) St. Marys Precinct #7 is a created by the Wake County Board of Elections out of St. Marys Precinct #4;
(2) Raleigh 01-27 Part is an area reported by the Bureau of the Census as part of Raleigh 01-23 but has been put by the Wake County Board of Elections in Raleigh 01-27; and
(3) VTD ZZZZ has been assigned to the appropriate parts of Wake Forest #1 and Wake Forest #2,

all as shown on the Legislative Services Office computer database as of May 1, 1991.

For Anson, Bertie, Camden, Caswell, Franklin, Gates, Greene, Hertford, Hoke, Lee, Lincoln, Martin, Mitchell, Northampton, Pasquotank, Perquimans, Person, Tyrrell, Vance, Warren, and Yadkin Counties, precincts are as shown on maps on file with the Legislative Service Office as of May 1, 1991, except that

(1) In Anson County, Lanesboro #1 and Lanesboro #2 are listed together as Lanesboro #1 and #2;
(2) In Vance County, where West Henderson II is not contiguous, the northerly part is listed as West Henderson IIA and the southerly part as West Henderson IIB;
(3) In Perquimans County, computer VTD Code 0005 (Track 9801, Block 550A) is actually part of Belvidere Precinct and is districted with it notwithstanding any description above;

(4) In Greene County, Snow Hill Town Satellite is Tract 9503, Block 301A which is a part of Snow Hill town Precinct entirely surrounded by Sugg Precinct and is districted with Sugg Precinct notwithstanding any description above

(5) In Greene County, Snow Hill town Sat B is Tract 9503, Block 224B which is a part of Snow Hill Town Precinct entirely surrounded by Snow Hill Rural Precinct and is districted with Snow Hill Rural Precinct notwithstanding any description above;

(6) In Mecklenburg County, Precinct XMC2 Noncontiguous is Tract 55.01, Block 303C, and is districted with Precinct MC1 notwithstanding any description above;

(7) In Martin County, any listing of VTDs not defined consists of Tract 9705, Block 413 (which is in Poplar Point Precinct), Tract 9704, Block 202 (which is in Goose Nest Precinct), and Tract 9706, Block 168A (which is in Robersonville #2 Precinct), and those blocks are districted with those respective precincts regardless of any listing above;

(8) In New Hanover County, Tract 123.98, Blocks 307B, 308A, 309, 310A, 311A, and 312A, listed by the Census Bureau as part of VTD ZZZZ, are districted by this section as part of Wilmington #2.

If any precinct or township boundaries are changed, such changes shall not change the boundaries of the Congressional Districts, which shall remain the same.

In the case where any individual blocks are listed above, the district allocation of unlisted water blocks shall be as found on maps and statistical reports of the districts on file with the Secretary of State.

(c1) In this section:

(1) Wake County Tract 0510, Block 301 is shown on the computer database as part of Raleigh 01-23 * when it is in fact correctly shown on the Board of Elections map as part of Raleigh 01-27;
(2) Vance County Tract 9606 blocks 248 and 227A are shown on the computer database as part of Hilltop, when they are in fact correctly shown on the Board of Elections map as part of North Henderson II and East Henderson I, respectively.;
(3) Lincoln County Tract 0706.98 Block 307 is shown on the computer database as part of North Brook I/II when it is in fact correctly shown on the Board of Elections map as part of North Brook III;
(4) Mecklenburg County Tract 0044 Block 906F is shown on the computer database as part of OAK when it is fact correctly shown on the Board of Elections map as part of Charlotte Pct. 16;
(5) Granville County Tract 9703, Block 330B is districted with Corinth * Precinct notwithstanding any description above.

(c2) If any precinct or township is listed in a district in this section, with a comma after the name of the precinct or township, followed by a listing of census geography within that precinct, and other parts of that precinct or township are not listed in another district, that precinct or township is in fact whole within the district with which it is listed.

(d) If this section does not specifically assign any area within North Carolina to a district, and the area is

(1) Entirely surrounded by a single district, the area shall be deemed to have been assigned to that district;
(2) Contiguous to two or more districts, the area shall be deemed to have been assigned to that district which contains the least population according to the 1990 United States Census; or

(3) Contiguous to only one district and to another state or the Atlantic Ocean, the area shall be deemed to have been assigned to that district."

Sec. 2. Chapter 601, Session Laws of 1991, is repealed.

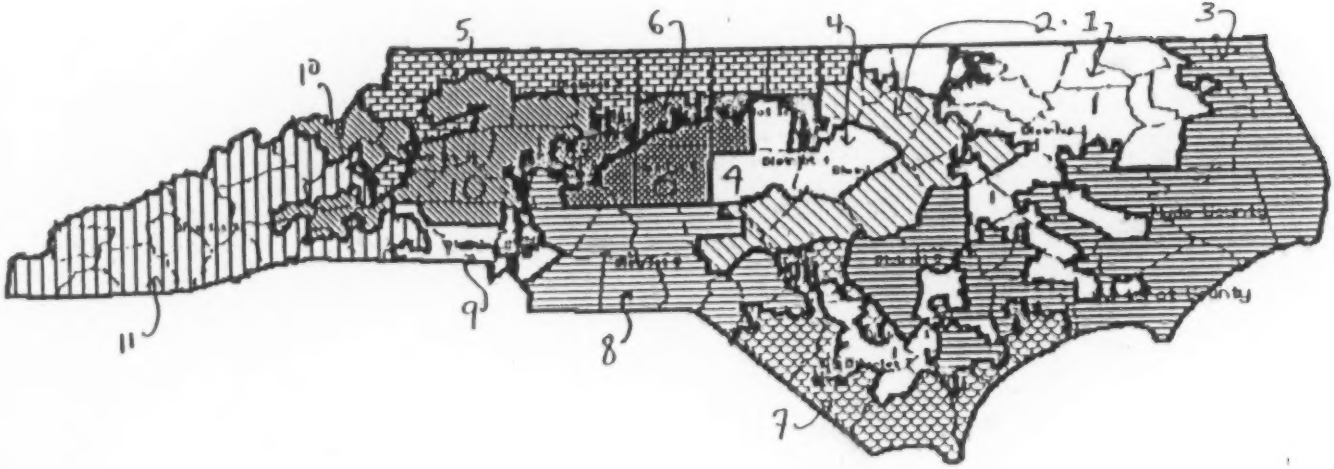
Sec. 3. This act is effective upon ratification.

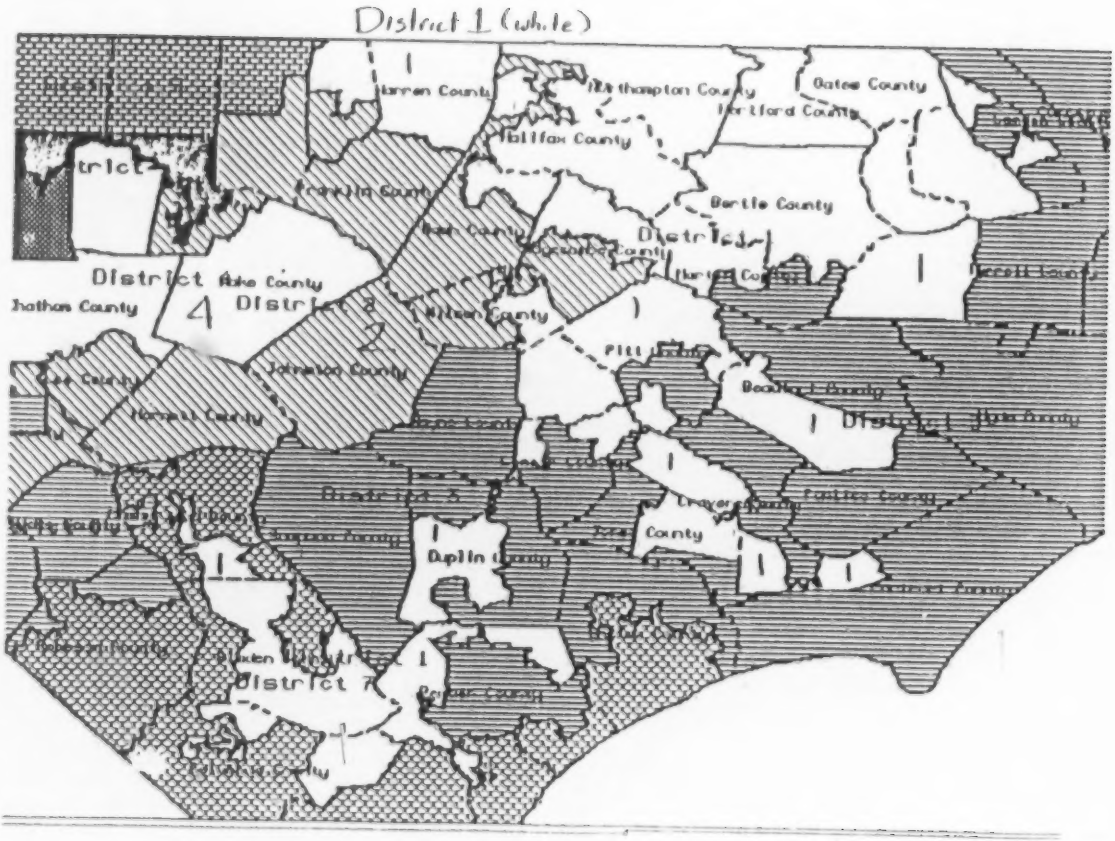
In the General Assembly read three times and ratified this the 24th day of January, 1992.

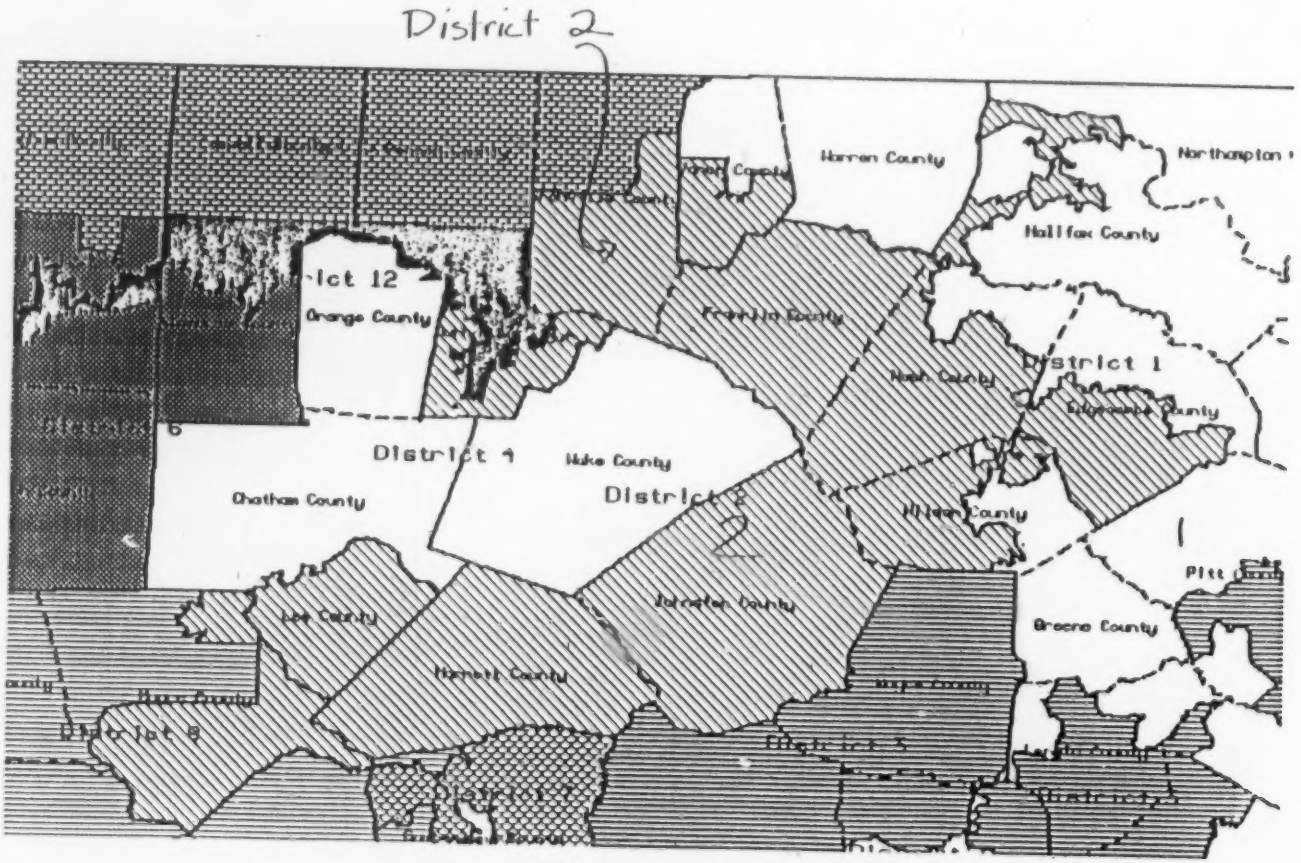
JAMES C. GARDNER
James C. Gardner
President of the Senate

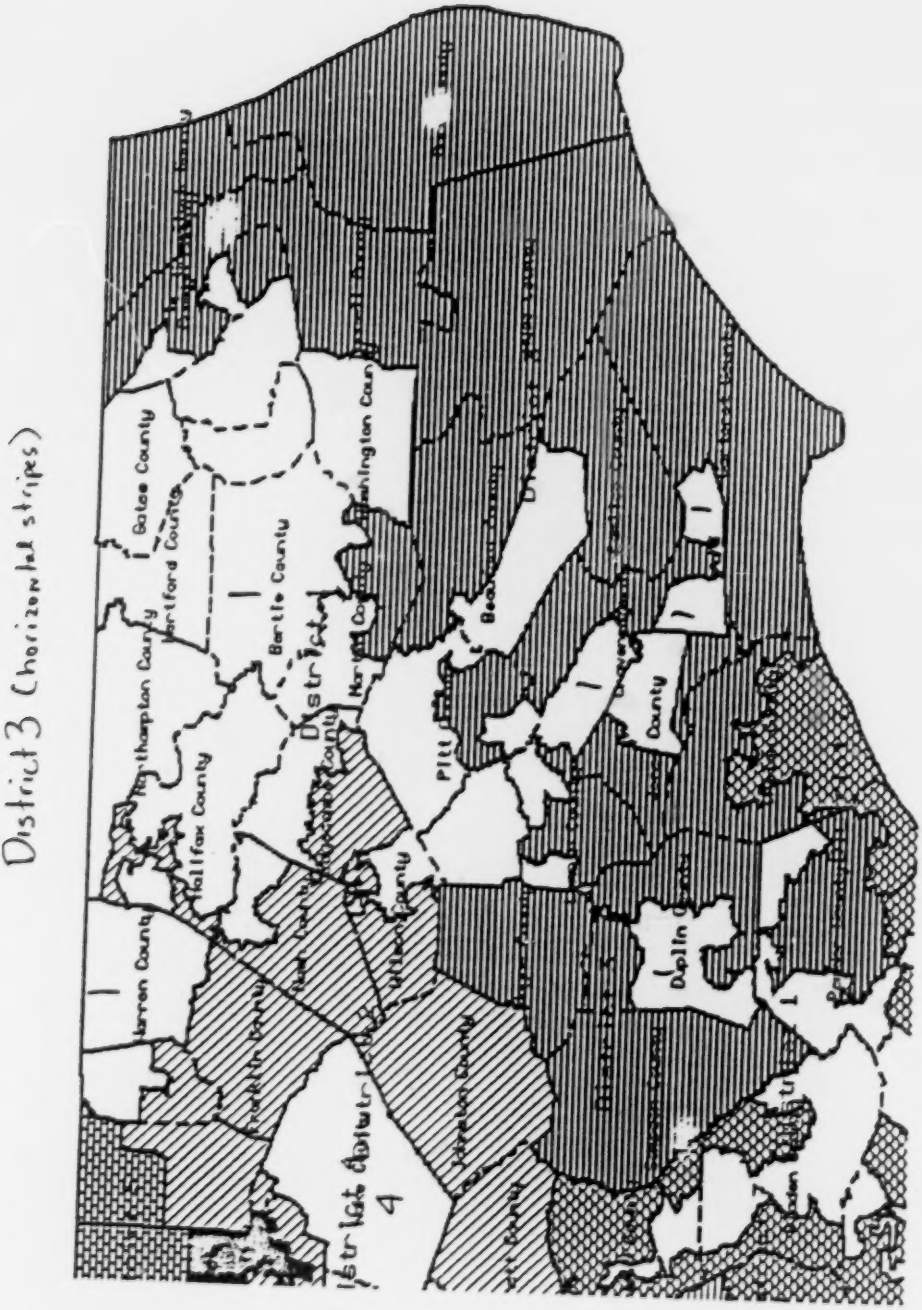
DANIEL BLUE, JR.
Daniel Blue, Jr.
Speaker of the House of Representatives

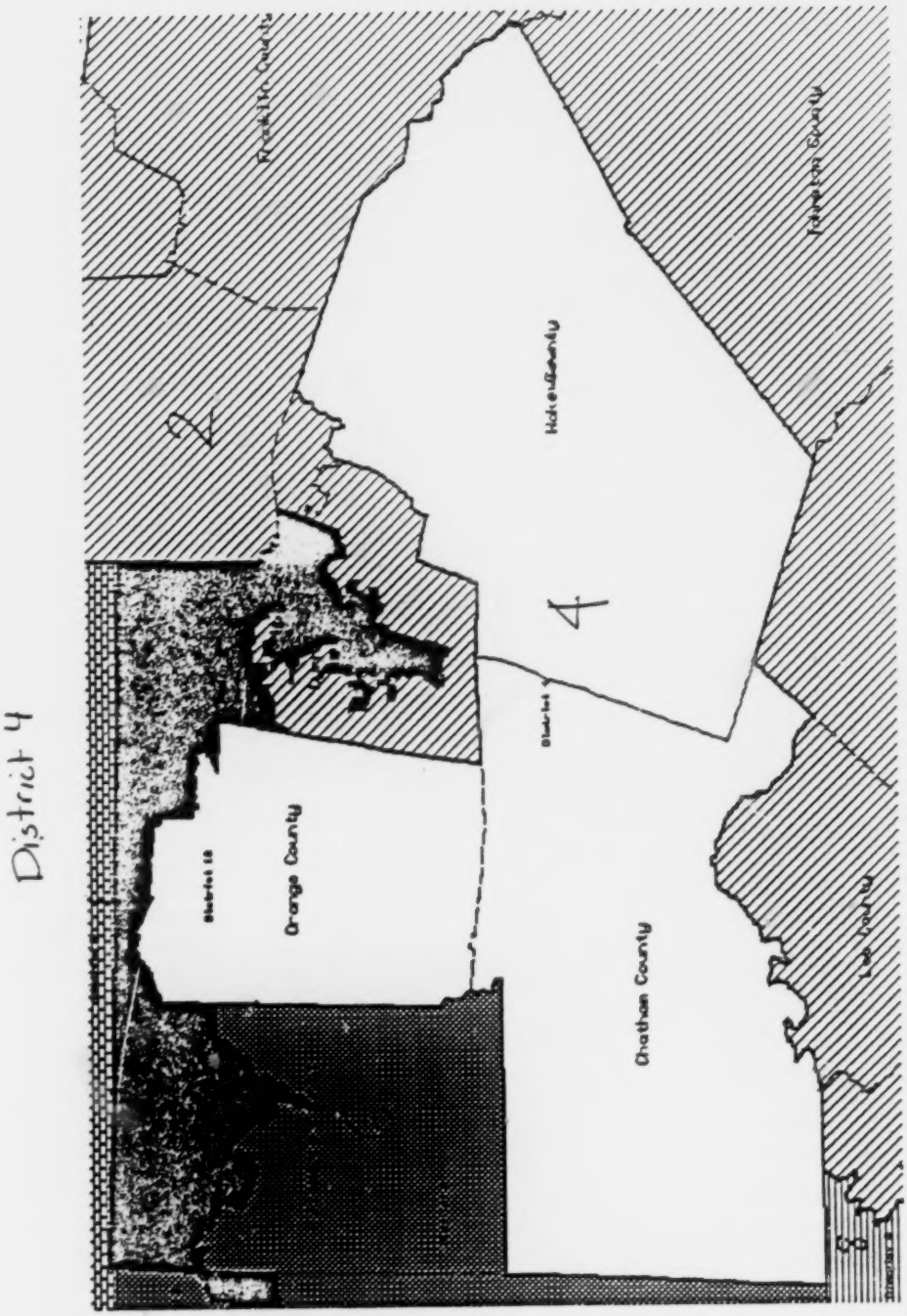
1992 Congressional Base Plan #10



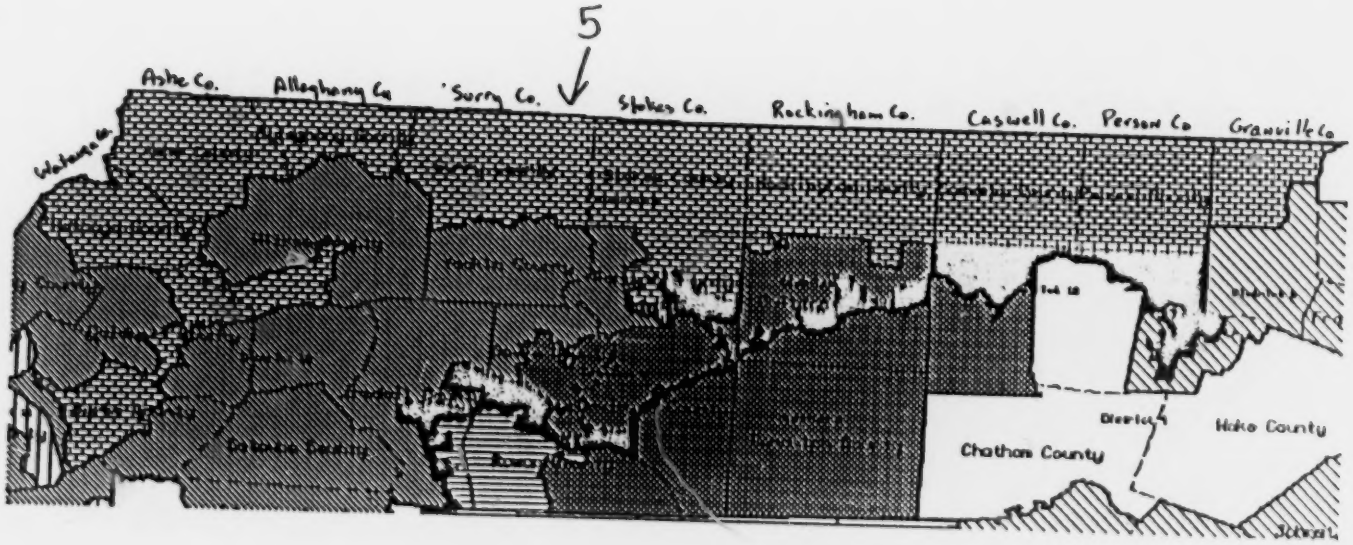

District 1 (white)
Gates County
Halifax County
Bertie County
Franklin County
District 4
District 2
Johnston County
Pitt
District 3
District 7


District 2
Warren County
Halifax County
Orange County
Franklin County
District 1
District 4
Wake County
Chatham County
District 2
Wilson County
Johnston County
Greene County
Lee County
Harnett County
District 7

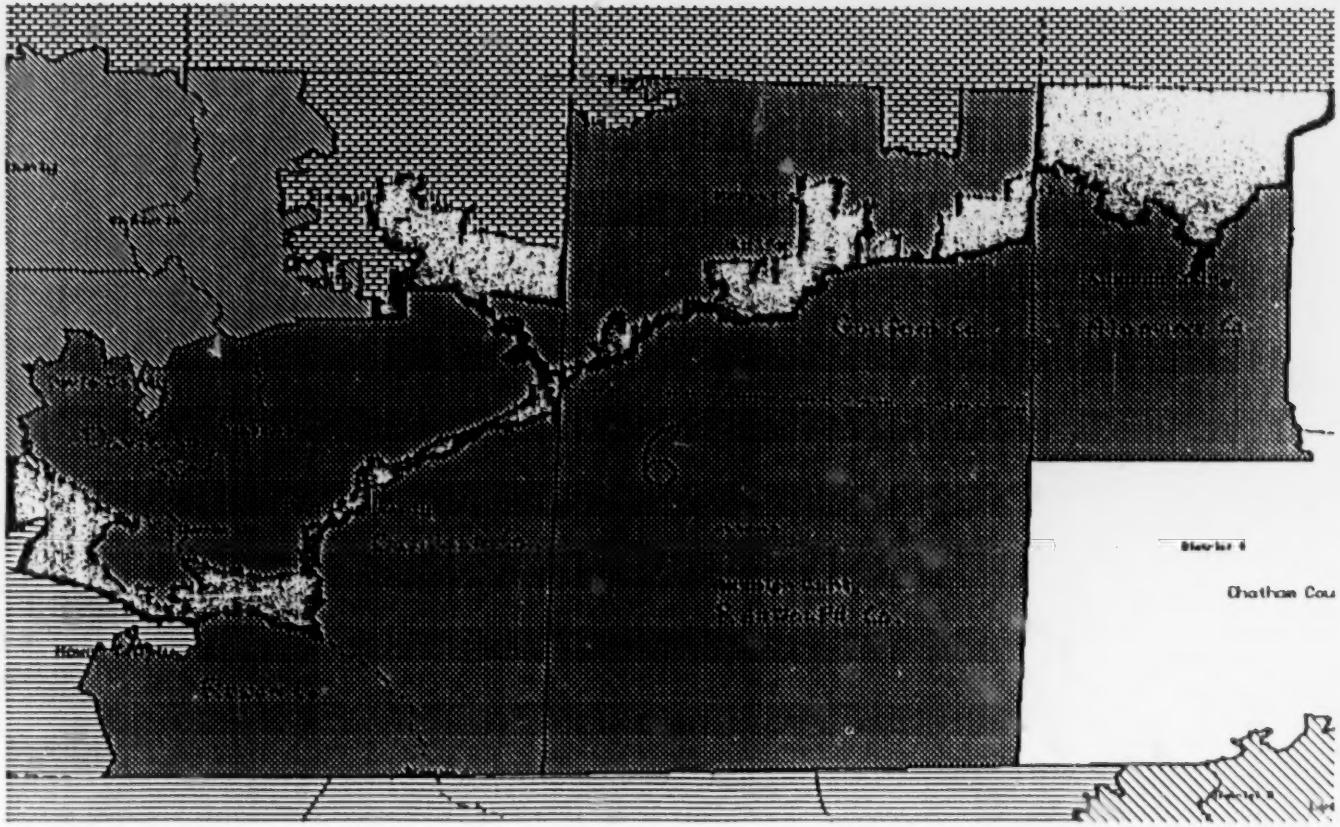

District 3 (horizontal stripes)
Gates County
Hertford County
Northampton County
Halifax County
Bertie County
Martin County
Washington County
Tyrrell County
Dare County
Hyde County
Beaufort County
Pitt County
Craven County
Jones County
Lenoir County
Greene County
Wayne County
Duplin County
Sampson County
Johnston County
Wilson County
Edgecombe County
Nash County
Franklin County
Warren County
Vance County
Granville County
Person County
Caswell County
Rockingham County
Stokes County
Surry County
Yadkin County
Davie County
Davidson County
Forsyth County
Guilford County
Alamance County
Orange County
Durham County
Wake County
Johnston County
Wilson County
Edgecombe County
Nash County
Franklin County
Warren County
Vance County
Granville County
Person County
Caswell County
Rockingham County
Stokes County
Surry County
Yadkin County
Davie County
Davidson County
Forsyth County
Guilford County
Alamance County
Orange County
Durham County
Wake County
1st Cong. District
4

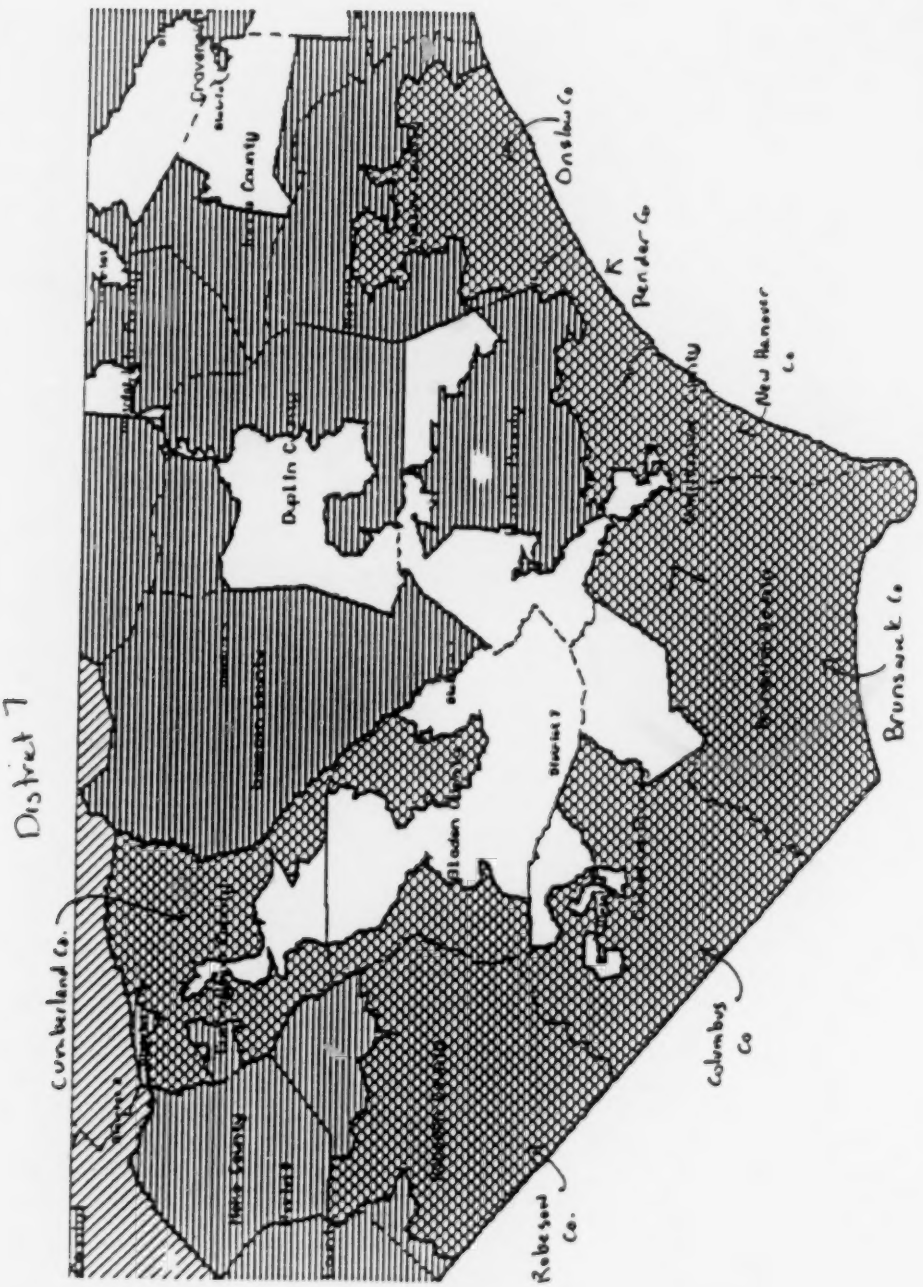

District 4
Orange County
Chatham County
4

District 5


5
Ashe Co.
Alleghany Co
Surry Co.
Stokes Co.
Rockingham Co.
Caswell Co.
Person Co
Granville Co
Chatham County
Wake Co

District 6

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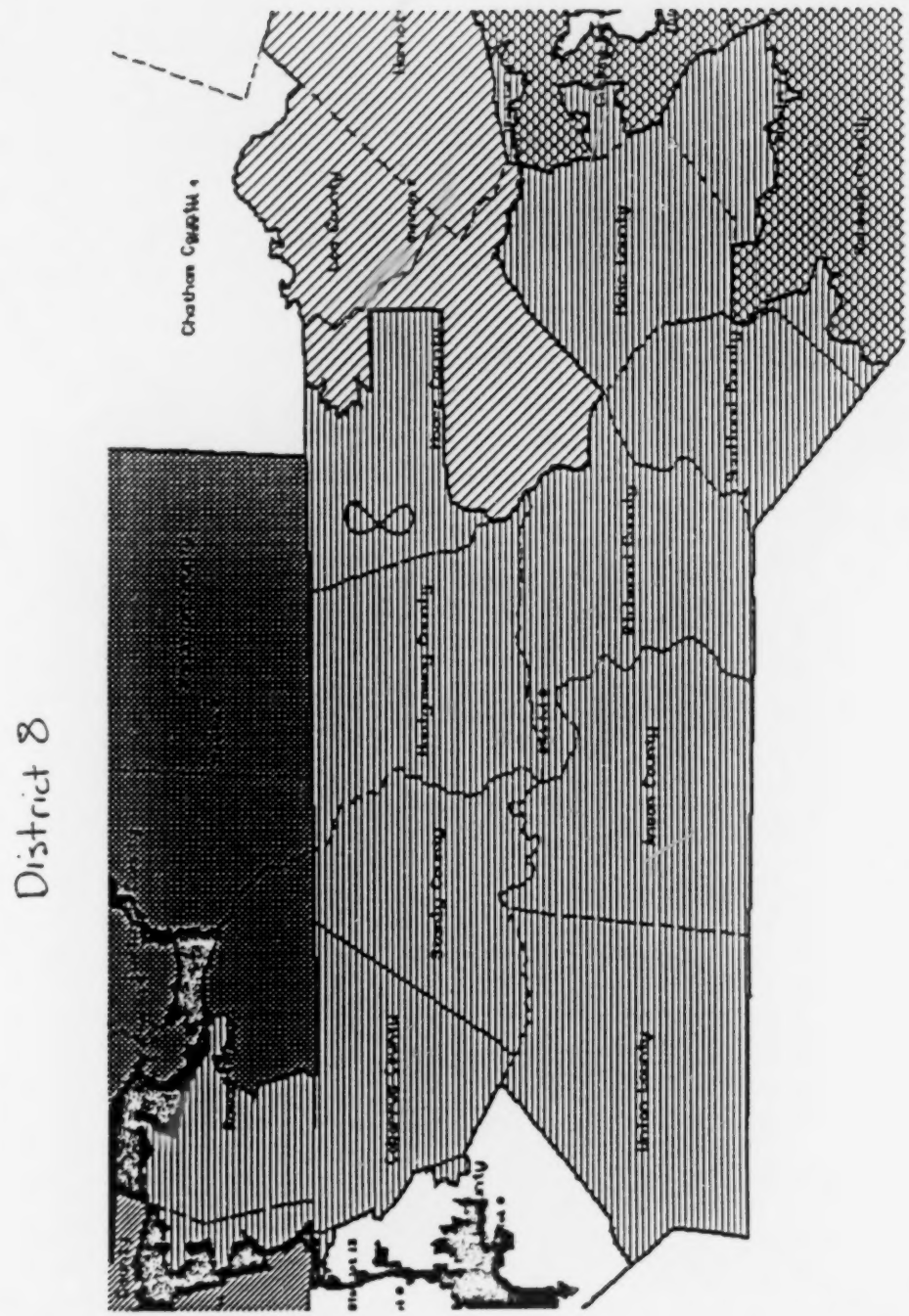
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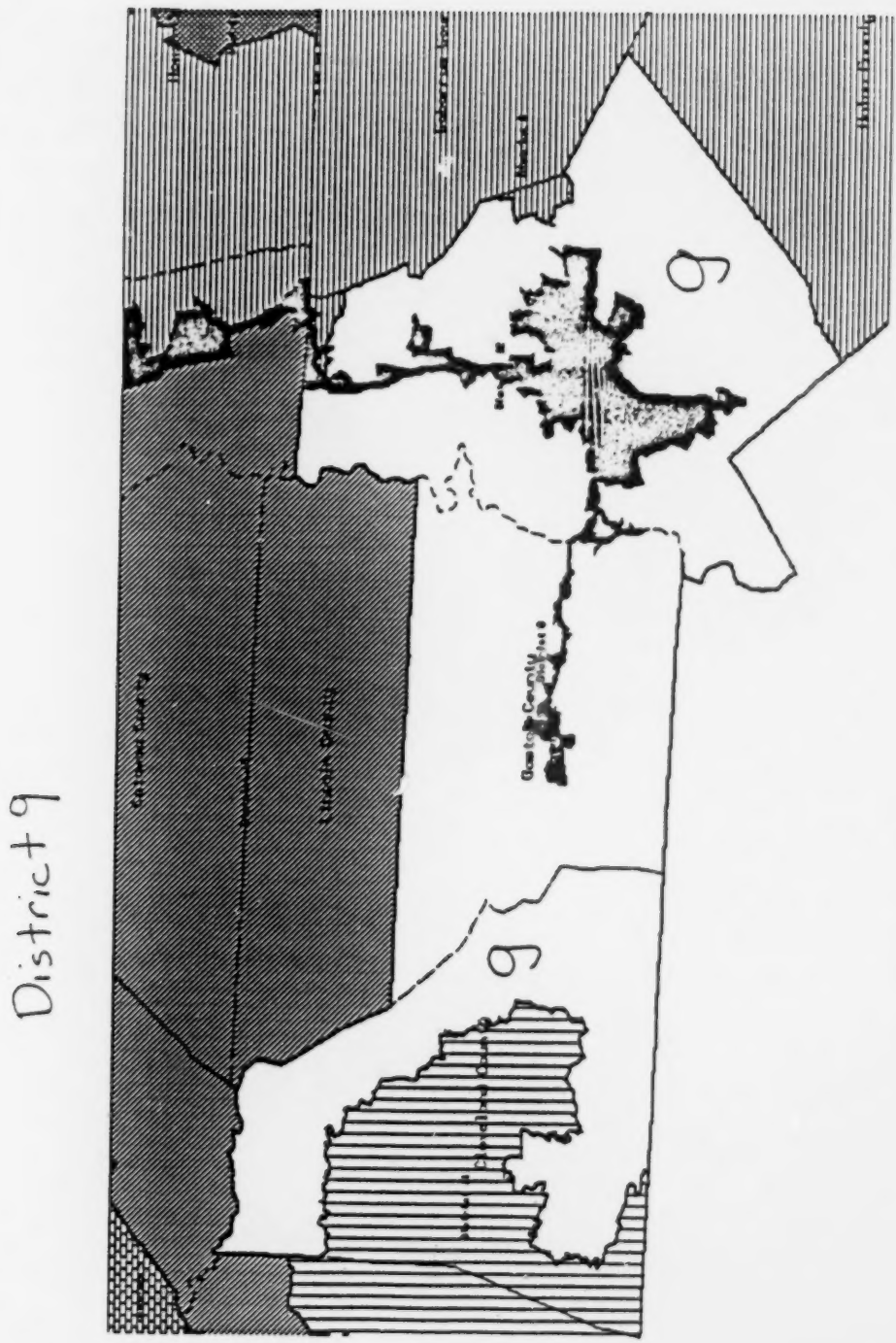
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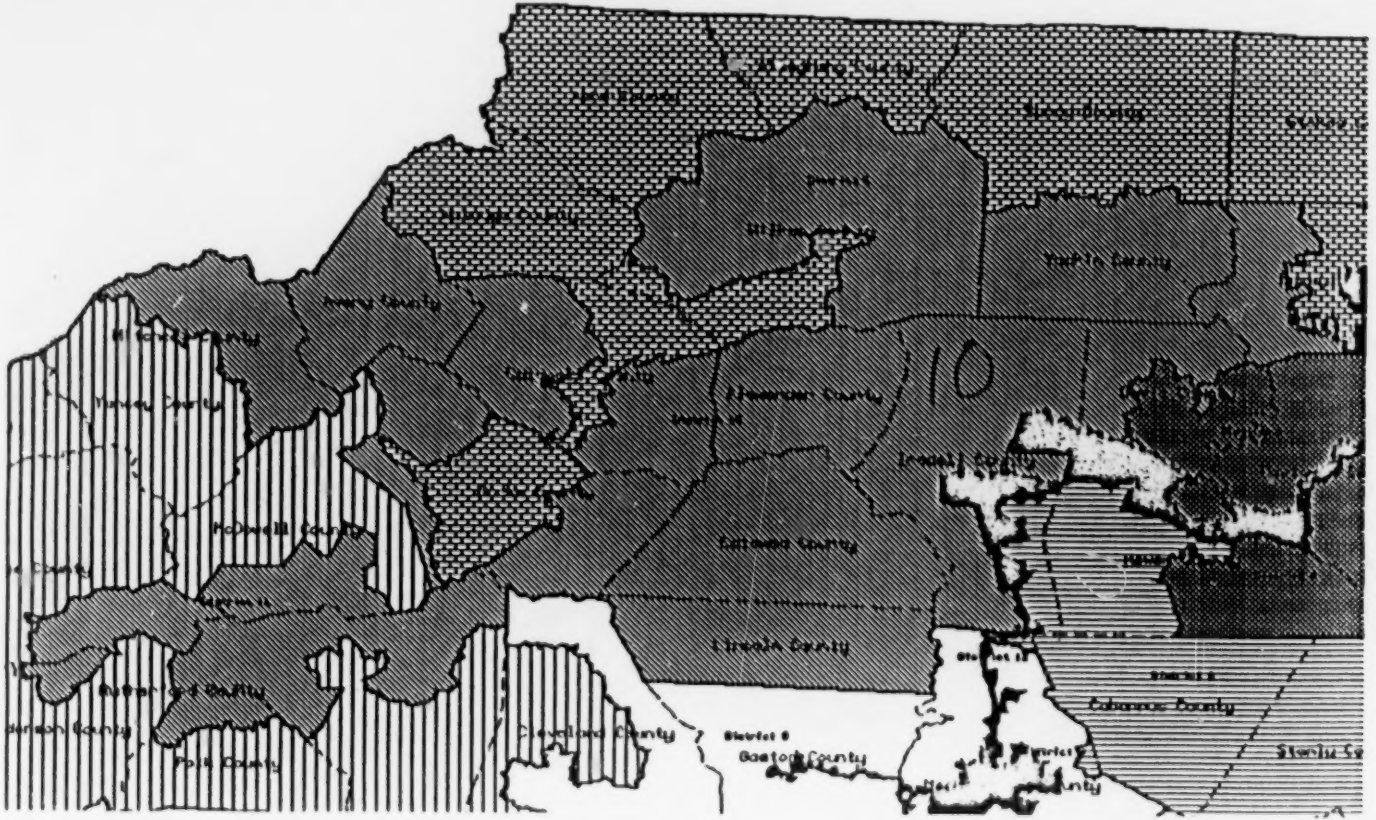
District 10



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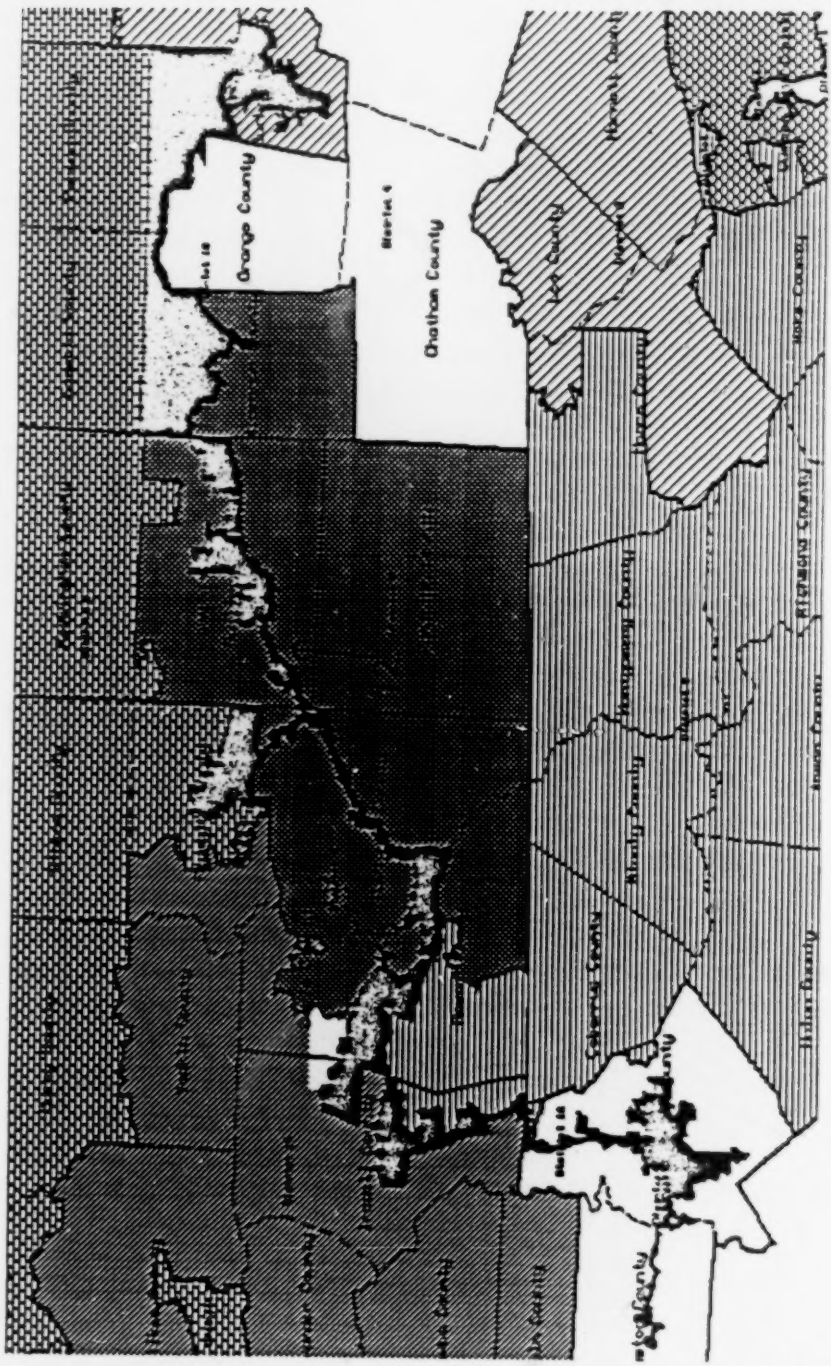
District 12
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Harnett County
Johnston County
Wayne County
Sampson County
Bladen County
Columbus County
Robeson County
Hoke County
Cumberland County
Moore County
Richmond County
Scotland County

EXHIBIT 4

U.S. Department of Justice
Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20085*

February 6, 1992

Tiare B. Smiley, Esq.
Special Deputy Attorney General
P.O. Box 629
Raleigh, North Carolina 27602-0629

Dear Ms. Smiley:

This refers to Chapter 7, (1991 Extra Session), which provides for the redistricting of congressional districts and an increase from eleven to twelve congressional districts; Chapter 5 (1991 Extra Session), which provides for the redistricting and a change in the method of election from 42 single-member districts and 30 multimember districts to 81 single-member districts and 17 multimember districts for the North Carolina House of Representatives; and Chapter 4 (1991 Extra Session), which provides for the redistricting and a change in the method of election from 22 single-member districts and 28 multimember districts to 34 single-member districts and 8 multimember districts for the Senate for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the House and Senate submissions on January 17, 1992; supplemental information was received on January 23, 24, 27, 28, and 30, 1992. We received the congressional submission on January 28; supplemental information was received on January 31.

The Attorney General does not interpose any objection to the specified changes contained in the three plans. How-

ever, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

/s/ John R. Dunne
John R. Dunne
Assistant Attorney General
Civil Rights Division

EXHIBIT 5

STATE OF NORTH CAROLINA

COUNTY OF WAKE

DECLARATION

I, James Arthur "Art" Pope, make the following declaration under penalty of perjury under the laws of the State of North Carolina and the United States:

1. I am a citizen and resident of Wake County, North Carolina, and am registered to vote in the Fourth Congressional District. I currently serve as a Republican Member of the North Carolina House of Representatives from the 61st Legislative District. During the debate over the 1991-92 redistricting efforts by the General Assembly, I attended public hearings on various proposals and participated in the House Committee on Local and Legislative Redistricting.

2. On December 18, 1991, the United States Department of Justice interposed an objection to the first set of redistricting plans enacted by the Democratic majority in the General Assembly. On December 30, 1991, the General Assembly reconvened to consider new redistricting proposals.

3. Toward the end of December 1991 or early January 1992, newspaper accounts published in local newspapers indicated that the Democrat leadership in the General Assembly was reviewing a Congressional Redistricting Plan prepared by Mr. John Merritt, an employee of a congressional committee that is chaired by Congressman Charlie Rose. *See* e.g. Exhibit A. In response to these articles, I called Mr. Gerry Cohen or Mr. Bill Gilkenson, employees of the General Assembly's Legislative staff, to ask for a

copy of Mr. Merritt's plan. Either Mr. Cohen or Mr. Gilkenson informed me that they had seen Mr. Merritt's plan, but that it had been shown to them by a legislator and therefore had to be kept confidential. Either Mr. Cohen or Mr. Gilkenson gave me a phone number for Mr. Merritt in Washington, D. C., and suggested that I contact him directly. I called the number given to me by Mr. Cohen or Mr. Gilkenson and left a message for Mr. Merritt, asking that he contact Representative Art Pope in North Carolina to discuss his proposed redistricting plan.

4. On or about January 6, 1992, I received a call from Mr. Merritt. When I asked Mr. Merritt if I could receive a copy of his redistricting plan, he advised me that something like his plan would appear at a public hearing on redistricting that was scheduled for January 7, 1992. Mr. Merritt described his plan as creating a minority district along the I-85 corridor that connects Durham, North Carolina, to Charlotte, North Carolina. Mr. Merritt also told me that he had been asked to prepare a plan by the incumbent Democrat Congressmen and that the incumbent Democrat Congressmen had asked him to draw a plan that would "get the Republicans." Merritt further advised me that the first plan he had prepared would have placed two Republican incumbents, Howard Coble and Cass Ballenger, in the same congressional district. Merritt told me that the incumbent Democrat Congressmen had agreed to drop his first proposal as being too controversial.

5. On January 8, 1992, I attended a public hearing in Raleigh on congressional redistricting. At this public hearing, Mary Peeler, State Director of the NAACP, presented a plan for congressional redistricting which continued [sic] two minority districts, one along the I-85 corridor and another in eastern North Carolina stretching from the Virginia border to an area close to South Carolina. Staff employees of the General Assembly acknowledged to me that the plan proposed by Ms. Peeler was based upon the plan originally prepared by Mr. Merritt. I cannot confirm the truth of

this representation since both Mr. Merritt and the staff on the General Assembly refused to provide me with a copy of Mr. Merritt's plan.

6. On January 24, 1992, the Democrat majority in the General Assembly ratified Chapter 7 of the 1991 Extra Session. This chapter established the current congressional districts in the State of North Carolina as reflected by Exhibit B. The districts established by Chapter 7 are substantially identical to the districts proposed by Ms. Peeler at the January 8, 1992, public hearing.

7. Attached hereto as Exhibit C is a chronology of events related to Congressional redistricting from the date on which the General Assembly's original redistricting plans were rejected by the United States Department of Justice through the date on which Chapter 7 was entered.

I declare under penalty of perjury under the law of the State of North Carolina and the United States that the foregoing affidavit is true and correct to the best of my knowledge, information, and belief.

This the 27 day of February, 1992.

James Arthur "Art" Pope
James Arthur "Art" Pope

bfc/taf3/taf84
12324.002

THE CHARLOTTE OBSERVER Wednesday, January 1, 1992 * * * *

Plan with 2nd black-majority district circulated

Associated Press

An aide to U.S. Rep. Charlie Rose is circulating a redistricting plan that would create two black-majority districts and give Democrats an advantage in nine of the 12 congressional districts North Carolina will have this year.

John Merritt, an employee of the House Administration Committee that Rose chairs, met with state lawmakers Monday during a special legislative session. He told The News & Observer of Raleigh the plan is an option but not an official proposal from Rose, a Fayetteville Democrat.

That plan calls for two districts with a black population of about 55% each. One district would run north and south across a huge swath of Eastern North Carolina. The other would run in a thin band across the Piedmont from Charlotte to Durham.

The U.S. Justice Department has rejected a congressional redistricting plan drawn up by the legislature, saying it went too far in trying to protect incumbents and not far enough in providing districts with black and Indian residents holding an effective electoral majority.

Five of Rose's Democratic colleagues in Congress say the state should go to court to defend its congressional redistricting plan rather than redraw it.

Reps. David Price, Martin Lancaster, Tim Valentine, Steve Neal and Bill Hefner made that recommendation in letters to state House Speaker Dan Blue.

Because 40 of North Carolina's 100 counties are subject to the Voting Rights Act, the state's redistricting plans must receive federal approval. The state also may seek

approval through U.S. District Court for the District of Columbia. That is what the five House members want the state to do.

North Carolina has 11 U.S. House seats, seven held by Democrats and four by Republicans. Under the 1990 census, the state qualified for a 12th House seat.

The legislature's congressional redistricting plan establishes a Republican-leaning 12th District stretching from Randolph County through the northwest Piedmont. It also forms a black-majority 1st District stretching from Durham east to Elizabeth City and south to New Bern. That plan keeps incumbents in separate districts.

Under the plan distributed by Merritt, Hefner, chairman of a House Appropriations subcommittee, would see Fort Bragg and portions of Robeson County shifted into his district. Price, North Carolina's other Appropriations Committee member, would retain a favorable district in the Raleigh-Durham-Chapel Hill Triangle area.

Rose would continue to represent a district anchored in Fayetteville and Wilmington, but with fewer minority voters than his district now contains.

The plan would have a dramatic effect on districts held by Republicans. For example, the district of Rep. Alex McMillan would stretch from Mecklenburg County to Randolph County.

Merritt says the proposal would provide for three solidly Republican districts and nine districts in which Democrats would have an advantage.

EXHIBIT 6

NORTH CAROLINA
WAKE COUNTY

AFFIDAVIT

Andrew C. Wright, being first duly sworn, says that:

1. I am a citizen and resident of Wake County, North Carolina.

2. I am Political Director for the North Carolina Republican Party.

3. As a part of my responsibilities, I have collected a substantial number of newspaper and magazine articles from a large variety of sources, published in December 1991 and January and February 1992, all dealing with the 1991-92 North Carolina Congressional redistricting process. Among these publications are *The News and Observer* of Raleigh, *The Charlotte Observer, The Greensboro News and Record, The Winston-Salem Journal,* and *The Wall Street Journal.*

4. Attached to this affidavit are a significant number of copies of those articles.

/s/ Andrew C. Wright

NORTH CAROLINA
WAKE COUNTY

Sworn to and subscribed before me this 27th day of February, 1992.

/s/ De Ann Yager
Notary Public

My Commission Expires:

My Commission Expires 4/10/96

Winston-Salem Journal
January 1, 1992

Rose's Aide Offers Redistricting Plan

An aide to U.S. Rep. Charles G. Rose III is circulating a redistricting plan that he says would create two black-majority districts and give Democrats an advantage in nine of North Carolina's 12 congressional districts.

John Merritt, an employee of the House Administration Committee that Rose heads, met with state legislators Monday during a special legislative session.

He said that the plan is an option for consideration but not an official proposal from Rose.

It calls for two districts with a black population of about 55 percent each. One district would run north-and-south across a huge swath of Eastern North Carolina.

The other would run in a thin band across the Piedmont from Charlotte to Durham.

Five of Rose's Democratic colleagues in Congress, meanwhile, say that the state should go to court to defend its congressional redistricting plan rather than redraw it.

U.S. Reps. David E. Price, Martin Lancaster, I.T. "Tim" Valentine Jr., Stephen L. Neal and W.G. "Bill" Hefner made that recommendation in letters to Daniel T. Blue Jr., the speaker of the N.C. House of Representatives.

The U.S. Justice Department rejected the congressional plan, saying that the legislature went too far in trying to protect incumbents and not far enough in providing districts with blacks and Indians holding an effective electoral majority.

Because 40 of North Carolina's 100 counties are subject to the Voting Rights Act, the state's redistricting plans must receive federal "pre-clearance" before going into effect.

Asheville Citizen Times
January 12, 1992

Redistricting plan would hurt Taylor

RALEIGH—The Democrat-controlled General Assembly may be on the verge of using Interstate 85 to try to drive Republican 11th District U.S. Rep. Charles Taylor out of office.

A congressional redistricting plan that appeared to be picking up support among legislators last week would use areas along I-85 from Charlotte to Durham to create a black-majority district and remove some heavily Republican areas from Taylor's 11th Congressional District.

The plan would take the northern two-thirds of Henderson County, southeastern Buncombe, northeastern Rutherford, most of McDowell and all of Mitchell County from what is now the 11th and place them in the adjoining 10th Congressional District represented by Republican U.S. Rep. Cass Ballenger of Hickory. Predominantly Democratic Cleveland County would be added to the 11th.

Because elections in the 11th—now made up of part of Avery County and all of Mitchell, McDowell and Rutherford counties and those west—have frequently been decided by less than 5,000 votes, any change in it could easily affect future contests to represent it.

Some Democrats in the legislature say what has been dubbed the "I-85 plan" is the best way to cope with the Republican-controlled U.S. Justice Department's December rejection of a congressional redistricting plan the General Assembly passed last summer.

That plan would have created only one district in which minorities make up a majority of the electorate—and though it would have taken heavily Republican Mitchell County and part of Avery from the 11th, it would have otherwise left it largely intact.

But the Justice Department said the legislature should try to create two "majority minority" districts, perhaps adopting a version of a Republican-backed plan to create a district stretching from Charlotte to Wilmington—along U.S. 74—in which blacks and Indians would have been a majority.

Legislators are to meet in special session Monday to decide whether to fight the Justice Department decision in court or try to come up with another set of districts.

The I-85 plan—pushed by an aide to Democratic U.S. Rep. Charlie Rose of Fayetteville and leaders of the state NAACP—would place predominantly black areas in Charlotte, Greensboro and Durham, and Caswell, Person, Granville and Vance counties in the same district, linked by small areas along I-85. A second black-majority district would be located in Eastern North Carolina.

The plan would also create nine districts in which Democrats would enjoy an advantage and three favoring Republicans. Many observers had said the plan passed last summer likely would have created four safe Republican districts and a virtual toss-up in WNC's 11th. Democrats now hold seven of North Carolina's current 11 seats in the U.S. House.

House Speaker Dan Blue said he has not decided whether to support the I-85 plan, but said it would link areas with "common interests"—an attribute he said the Charlotte/Wilmington district lacks.

Taylor said in a statement Friday that he is "concerned about any plan which would reach into and divide the mountain counties."

"Dividing the communities of interest in the mountains will weaken our representation and our ability to compete. It will also be very difficult for people to know who represents them or who to go to for help," Taylor said.

Taylor's likely opponent in this year's election, Democrat Jack Stevens of Asheville, said by telephone he knew little about the plan and has no position on it.

Ballenger told legislators Wednesday on behalf of Taylor and the state's other two GOP U.S. House members that it should adopt a plan with two minority-majority districts.

But he said by telephone Friday he is none too pleased with the I-85 plan, even though it would make his district even safer for him or a Republican successor.

Ballenger's current district—composed of five counties between Boone, Shelby and Gastonia plus most of Avery County—would be modified to stretch from Hendersonville to just west of Winston-Salem.

The two black-majority districts called for in the plan might be all right, Ballenger said, but the changes in WNC counties are "the ultimate in hypocritical Democratic design," he said.

A district along I-85 could be easily created without making many changes in the 10th or 11th districts, Ballenger said.

The News & Observer
January 21, 1992

Reading the 'inkblot'

If a psychiatrist substituted North Carolina's proposed congressional redistricting maps for Rorschach inkblot tests, diagnoses of wackiness would jump dramatically. The maps drafted by the state House and Senate for consideration this week don't make any sense—to people who have any sense.

Instead, they represent selfish political interest—the attempt to protect Democratic incumbents—and the blind rigidity of the U.S. Justice Department and some black leaders who insist that at least two of the 12 districts must be predominantly black.

It's crazy, utterly crazy, to draw districts such as the one that would stretch for squiggly miles and miles along I-85 from Durham to Gastonia.

The interests and concerns of the residents of these two areas differ greatly. Someone who lives in the city of Durham, black or white, surely has more in common with someone in the outlying county than with a resident of Gastonia—and has a greater need to share representation in Washington.

But the I-85 district would be predominantly black, and hence likely to ensure the election of a black congressman. If this plan goes through, that congressman will have his hands full just traveling the 175 miles from one end of the district to the other, much less getting to know constituents and their concerns.

The same certainly can be said of the other proposed black-majority district, which cuts and slashes across a spate of eastern counties like the proverbial puzzle piece from hell.

There's more stupidity in these plans, but their individual eccentricities are not as bad as what they say about the system.

Certainly politics enters into redistricting, and the Democrats, as the party controlling the General Assembly, get to call the shots. Republicans haven't been above partisan game-playing during the current squabble. But contorted districts like those proposed only make the controlling party look petty—as if to win, it has to have a tremendous edge beyond the quality of its candidates.

A good redistricting plan would keep congressmen—whatever their color or party—literally and figuratively close to home. A lawmaker ought to know families, streets, neighborhoods—and what concerns are particular to specific areas. That closeness to the people is the pillar of the U.S. House.

These plans are a long way from that ideal—though perhaps not as great as the distance between Durham and Gastonia.

Winston-Salem Journal
January 28, 1992

New Congressional Plan

Symptom of Ailing Process

Legislators repeatedly voiced their disgust with their own work before approving a new 12-district plan during a special session last week, 72-39 in the House and 24-12 in the Senate. The session was called after the U.S. Justice Department voided the state's original congressional-district plan under the federal Voting Rights Act, ruling that it improperly diluted minority voting strength because it only contained one district in which blacks were a majority when two could have been formed.

The new plan's most distinctive and controversial feature is a narrow district that snakes along highway corridors from Gastonia to Winston-Salem to Durham. It is one of two districts with a majority of black residents; the other rambles erratically through large swatches of Eastern North Carolina.

Most of the remaining districts are also absurdly configured, and dozens of cities and counties are bifurcated. Forsyth County, and even the city of Winston-Salem, is split into three districts. Rep. Stephen L. Neal, who has represented the entire county and most of Northwest North Carolina since 1975, must now run in an incongruous 250-mile-long district that contains only a fraction of his former Forsyth base and meanders from Oxford to Morganton.

For all there is to criticize in this plan, it is important to distinguish between the worthy intentions and the conniving execution that led to its being drawn.

After the 1992 election, North Carolina will almost certainly have two black members among its 12 representatives in the U.S. House. In a state that is 22 percent black, that is not unfair; those who are quick to register

their offense at "quota politics" ought to be equally offended by the political, cultural and social conditions that produced no black congressmen from this state for nearly a century.

Nevertheless, the assumptions behind the new plan are as disturbing as its aesthetics—the idea that black citizens can only be elected to or effectively represented in Congress by segregating them from neighboring whites. Under the new plan, blacks will for the most part have negligible influence in the 10 white-majority districts.

But most outspoken black leaders have come to the conclusion that the sad assumptions behind the new plan are nonetheless valid, and few whites who are familiar with this state's politics can honestly disagree, at least on historical grounds. That is why 40 North Carolina counties are subject to the Voting Rights Act in the first place.

If the Democrats were legitimately interested in forging the community bonds that are undermined by the plan, they would have made the preservation of those bonds a higher priority than the protection of incumbent Democrats. If the Republicans were legitimately interested in representing all people, they would be reaching out to black voters instead of exploiting the racial fears of prejudiced whites.

Neither party's leaders have done anything throughout the redistricting battle to assure voters that they are willing to put the public interest above more partisan concerns, and the result is the map now on its way to Washington for review. If approved, it may indeed make our political process less healthy, but it can also be seen as a symptom of a process already ailing.

Greensboro News & Record
February 2, 1992

Editorials

Reason, at last

Instead of adopting the broken mirror of a redistricting plan now headed to the Justice Department for approval, the North Carolina legislature should have drawn congressional districts that look more like those proposed by the League of Women Voters. (See today's Second Opinion page.)

The League's plan doesn't use every map-drawing trick ever invented to keep some districts safe for incumbent Republicans and Democrats, nor does it do back flips to create black congressional districts.

It wasn't drawn with partisan intent, nor did it bow to the unrealistic demands of a U.S. Justice Department that may have partisan motives of its own.

The League's map is true to the intent of the Voting Rights Act. It doesn't try to dilute minority voting strength—is in fact careful to maintain black strength where unreasonable. But it refuses to use race alone as a basis for segregating voters.

None of this can be said for the congressional redistricting approved by the North Carolina legislature. That plan is about as unsupportable as any districting scheme could be.

House Speaker Dan Blue, a Democrat, is apologetic in his column, which also appears on the next page. He agrees that the map goes awry when it attempts to piece together black neighborhoods all over the state in an effort to create two black congressional districts.

But, Blue maintains, the Justice insists on two minority districts. It's impossible to meet that demand without

breaking with the rule of geographic compactness. Fighting the Bush administration could take years and cost millions, he insists.

Blue concludes that under the circumstances this map is the best the legislature can do. We say fight for what's right.

The legislature shouldn't give up so easily. The Justice Department is plainly wrong if it buys the current redistricting scheme. As the map confirms, it confounds the basic principles of representative government and is sure to confuse and alienate voters.

As the League points out, congressmen should be elected from districts that respect the cohesive powers of television markets, newspaper delivery areas and highway networks. Dribbling out a district over several television markets will only aggravate the corrupting expense of running for office.

Relying on race or party, rather than relying on natural social and traditional political communities to delineate congressional districts can only lead to absurdity and worse. The League of Women Voters has offered a sensible compromise that illustrates the way to a respectable result.

Greensboro News & Record
February 2, 1992

Redistricting: Different maps, different philosophies . . .

Districts should reflect communities

League makes its own plan

The League of Women Voters of North Carolina has been monitoring the state's redistricting process since the initial public hearings last year and has offered an alternative congressional district plan. The League believes that apportionment and redistricting for representation should be based on population data and good government principles, and done in an orderly, equitable, nonpartisan manner. We were disappointed with the congressional plan adopted in July by the legislature because its plan did not appear to be based on the good government principles we consider important.

We believe the state has shown progress since allowing 40 percent to be considered a winning vote in multi-candidate primaries. A number of minority candidates have been able to win legislative elections.

We do not believe the Department of Justice necessarily requires over 50 percent minority populations in these districts; nothing in the department's Dec. 18 letter to the legislature mandates a quota of over 50 percent. Any district with over 50 percent minority population will have to have a peculiar shape that makes no sense in terms of community. Our state has a 22 percent minority population. We believe that the legislature should resist external demands to create districts that so badly distort normal governmental relations.

In October, the League sent the Department of Justice a plan that provided a fairly compact district in northeastern North Carolina. In this district a minority candidate would have a good chance of getting about 45 percent

of the vote in a party primary, thus becoming the party's candidate. We subsequently offered the redistricting committee and several interested legislators our proposed plan.

In response to the Department of Justice letter explaining its rejection of the North Carolina legislature's plan, we provided the redistricting committee and others with a modification of our proposed districts 3 and 7. The modification would divide one more county than our original plan, and would have a District 7 with a 43.68 percent minority (e.g., non-white) population: a second district that should be easily capable of selecting a minority candidate through the primary process, and of electing that candidate to office.

We also looked at the possibility of creating a greater than 40 percent minority district in the Piedmont, but rejected such a district on the grounds that the resulting convoluted district would interfere with, not promote, effective local government.

The logistics and cost of campaigning in the two minority districts now being considered by the General Assembly will be very difficult. The recently proposed "I-85" district appears to include at least seven different media markets. A campaign that had to invest in advertising for so many radio and TV stations would be extremely expensive. The legislature's northeastern district (an early version of which The Wall Street Journal last September called "computer-generated pornography") consists mainly of rural areas with little in common but minority populations and poverty.

In previous testimony at public hearings, we had urged that plans be based on the following criteria: an open process; respect for existing governmental relationships (e.g., television markets, newspaper delivery areas, highway and rail networks, chambers of commerce); compact, contiguous territories; and encouragement of dialogue and competition. While redistricting can never be apolitical, it

can balance the needs of good government relationships and voter education and participation against the natural desires of legislators to be re-elected or to seek advantage for a specific political party.

The League of Women Voters has offered a fair and balanced plan with two minority districts. The plan divides only 19 counties, very few cities, and encourages a sense of community, not divisiveness. The League asks that its plan be carefully and thoughtfully considered by North Carolina legislators, and the citizens they represent.

Wall Street Journal
February 4, 1992

Review & Outlook

Political Pornography—II

We've warned for years about the damage that the gerrymandering of congressional district lines can do to political competition and free elections. Some states, notably California, have cleaned up their map-drawing acts by taking the job away from the politicians. But the situation in other states recently has gone from bad to horrifying.

Last August, North Carolina's Legislature drew a congressional map that we labeled "political pornography." One district resembled a bug splattered on a windshield. The Justice Department rejected the plan, but not because of its tortured lines. It didn't satisfy its belief that the Voting Rights Act requires that minorities be corralled into districts that guarantee the election of one of their own.

Creating a second minority seat in the state to satisfy Justice is easily done, but only by endangering Democratic Rep. Charles Rose, a favorite of the House leadership. So to save Rep. Rose, Democratic bosses in the Legislature allowed one of Mr. Rose's own staffers to draw bizarre districts that make no geographic sense.

District 12 (depicted here in black) is a long snake that winds its way through central North Carolina for 190 miles, from Durham to Charlotte, scooping up isolated precincts with nothing in common save a large number of minority voters. For much of its length, the district is no wider than the Interstate 85 corridor that links the two cities. In one county, northbound drivers on I-85 would be in the 12th district, but southbound drivers would be in another. The next county over, the districts would "change lanes," and southbound drivers would be in the 12th District. How will candidates campaign in such a monstrosity? "We'll

just have rallies at every exit along I-85," jokes state Rep. Mickey Michaux.

The First District is equally senseless. It wanders from the Virginia border almost to South Carolina. Two of its parts appear to be connected only by a river, with the banks on each side in other districts.

The plan exposes what is wrong with the way districts are drawn in many states. The new lines were approved by the Legislature last month only days after their unveiling. There was little public input, and some Democrats refused to vote for the plan. Even black House Speaker Daniel Blue is apologetic about the lines and calls them "ugly."

High-tech computers now allow the crafting of districts that are contiguous only in the wildest of imaginations. "At some point somebody—probably the U.S. Supreme Court—will say this is ridiculous," predicts Thad L. Beyle, a University of North Carolina political scientist. Indeed, if inkblot maps such as North Carolina's aren't voided, the principle that office-holders should represent communities instead of scattered bits of real estate will be in jeopardy.

Gerrymandering has created a situation akin to the "rotten boroughs," that plagued Britain 175 years ago. Boundaries hadn't been redrawn to reflect population changes for centuries, with the result that some "rotten boroughs" had few or even no voters at all. Many landowners had lifetime seats in Parliament, and critics charged that the House of Commons was merely another House of Lords. It took the sweeping Reform Act of 1832 to bring fair districts and new blood to Parliament.

Something as dramatic may be needed here if American democracy is to remain effective. The lengths to which incumbents will go to protect their power and turf know no bounds. North Carolina is proof of that.

The News & Observer
February 8, 1992

See 'em in court

Except for the U.S. Justice Department, few people are pleased with the congressional redistricting plan drawn by the General Assembly. Republicans claim the plan discriminates against them. Democratic leaders are sheepish, because the peculiar configurations of districts—especially the one shaped like an arthritic snake that follows I-85 from Durham to Greensboro—are downright embarrassing to anyone with good sense. But don't count among the blushing the folks from Justice, who have approved the plan.

Rather than allow the state to be saddled for years with districts that are patently ridiculous, it might be best to take to the courts to settle the matter. Yes, judges would have to make sure that the state's election calendar wasn't thrown into turmoil.

But if such a plan takes effect in North Carolina, chances are that the same "political pornography," as The Wall Street Journal calls it, will spread to other states. Instead of being a butt of national scorn, North Carolina could be a proving ground for restoring some common sense to the redistricting ordeal.

To be sure, there's blame to go around. The Republican-controlled Justice Department carries its interpretation of the Voting Rights Act to an extreme in insisting on districts with majorities of minority voters.

And legislative Democrats certainly sought to protect their party's congressional incumbents and dilute what power Republicans had. This doesn't do their cause any favor. There are many strong Democratic incumbents, and candidates, who could make a fair fight of things without lead in their gloves from district lines tailored to their liking.

Beyond contortions for racial skewing or incumbent insurance, these districts have little rhyme or reason. Their boundaries are hardly convenient, either for constituents or for those who would represent them. They make a mockery of the idea that members of Congress represent people with whom they share common interests and problems because of geographic kinship.

Redistricting ought to be an opportunity to refine districts, to draw them to make more sense, not less. Getting an additional congressman, as North Carolina did with the last Census, should mean better representation.

Maybe these common-sense ideas will do better in court than they have so far in the legislature or at Justice. The citizens deserve to find out.

Greenville News & Record
February 1992

So sue, already

The U.S. Justice Department paved the way Thursday for elections in North Carolina under new legislative and congressional representation plans—unless, that is, someone goes to court and challenges this travesty. Let's hope someone does, and soon.

If North Carolina proceeds to elect a legislature and a congressional delegation according to the gerrymandered plan now in effect, we will have taken a long step away from the principle of a democratic republic and toward European-style interest-group politics. Worse, we will have unleased a process of racial polarization that threatens to undermine the fundamental human values of this nation.

It gets worse. Drawing districts dictated by race destroys accountability by ignoring natural geographical and political communities of interest. Districts that lack any political center of gravity will produce representatives who are ripe for exploitation by moneyed special interests from elsewhere.

Herding most of Guilford County's black voters into a crazy congressional district stretching along Interstate 85 from Charlotte to Durham leaves a 6th Congressional District bereft of demographic balance. And it creates a new 12th District in which consensus will be impossible except on racial grounds.

Do we want a legislature or a Congress made up of delegates accountable only to members of their own race, or religion, or occupational group? Some say yes, why not? But we say the prospect is a nightmare.

The American political tradition, with its two dominant parties, demands that politicians hear and understand and

speak for people who are not like them. Its defining principle is that minorities must be respected. It would be a tragic irony if, in the name of minority representation, we destroyed the very mechanism that protects the interests of minorities.

That's why it is essential that this dangerously misguided perversion of North Carolina election law be challenged now, before it is too late.

The Washington Post
February 25, 1992

Redistricting Draws Computer Literate Into Political Fray

By Guy Gugliotta
Washington Post Staff Writer

In the not-so-old days, redistricting the House of Representatives was nerds' work, performed by political geniuses with pocket calculators and street maps in their heads. The idea was to help your party, but do it in such a way that you could not be accused of gerrymandering—drawing the lines in such a mean-spirited way that the opposition disappeared altogether.

Do it right, and your party won most of the seats, leaving the opposition impotently gnashing its teeth. Democrats still marvel at one of their own, the late Rep. Phillip Burton, whose virtuoso performance in California in 1980 preserved a 27 to 18 Democratic House majority for a decade despite repeated Republican court challenges.

Now it is time to do it again with a new census and a new election: 435 districts will be reapportioned to reflect population shifts. The difference today, however, is that modern science has made it possible for anybody with $10,000 to $15,000 worth of software and a couple of discs full of census and precinct data to draw and redraw congressional districts to reflect whatever is needed.

At the National Committee for an Effective Congress, a think tank subsidized in part by Democratic Party organizations, Darryl Walter, a 27-year-old research analyst who spent two years working in Congress while he "learned about computers," can put the cursor on any precinct in the country and call up 54 different pieces of information.

These include such mundane items as the number of registered voters, voter turnout, numbers of blacks, His-

panics, Democrats and Republicans. But the computer also delivers results from House, Senate and presidential elections over the past 10 years or so, and coughs up in-house indices that the committee has developed to measure such things as "persuasion percentage" and "Democratic preference." "With a little flick," Walter said, "you can get whatever you want."

"There are 30-40 different versions of the software, and anyone who wants to have an input in the process has been able to get the programs since about 1989," said Mark Gerah, the committee's Washington director. "If your objectives were to draw politically neutral districts that reflected national population trends, that could be very easily done."

Except, of course, that no one wants to draw politically neutral districts. Everybody wants to draw legally plausible districts that leave the opposition with as little as possible.

This is not so easy, and the combination of political imperatives and computer science has conspired to create some truly spectacular results; districts shaped like squashed insects or inkblots like rorschach tests.

One of these, North Carolina's new 12th District, is a minority district created by linking black neighborhoods from Durham to Charlotte, a feat accomplished in party by extending the district for a considerable distance along Interstate 85.

The committee advised the North Carolina Democratic congressional delegation on creating the district and worked with the North Carolina state legislature, which produced the final design. Republicans alleged gerrymandering, but the Justice Department has accepted the plan.

Gersh said, the first principal of redistricting this year is compliance with the Voting Rights Act, which requires that minority districts be created to reflect national de-

mographics. Mess it up, and the Justice Department will make you do it again. This, Gersh said, is what inspired the 12th District, which some Rorschach readers might say looks like a jellyfish tenacle.

The second principle of redistricting, at least as far as Democrats are concerned, is to avoid legal challenges. Democrat-controlled legislatures may present any plans they like, but if Republicans have a reasonable case and get it into federal court, chances are the judges who review it will be Republican appointees.

And the third principle is, of course, to do good for your party. Here, Gersh says, the majority, whether Democratic or Republican, has to balance two priorities: "Do they want a plan that's heavy on incumbent protection, or do they want to create new opportunities?"

The drafter feeds all of this into the computer, and then starts to work, adding or subtracting counties, precincts or even individual city blocks to come up with an optimum combination that complies with the Voting Rights Act, helps your incumbents, hurts *their* incumbents, creates opportunities for your new people and denies them to *theirs*. All of this is supposed to be fair.

Last week Walter showed a visitor how the process worked—hypothetically—by calling up the Cleveland area shared by Democratic Reps. Mary Rose Oakar (her district colored in brown), Louis Stokes (red) and Edward F. Faighan (green). Walter is an Ohioan.

Press one button and the city is decorated with a thousand points of light, "each one a census post," Walter said. Using a computer mouse, he put the cursor on one point, pressed another button and watched the point become a table: Newburgh Heights, 364 registered voters, 60.2 percent turnout in 1988, expected this year to vote Democrat, 155; expected to vote Republican, 74. In 1988,

Massachusetts Gov. Michael Dukakis won 155 votes to 64 for George Bush. . . .

Walter erased the table, put the mouse on a county and pressed the button again. Now the picture was all red (Stokes) except for a green corner at one end (Feighan). The scale was one inch equals 2,000 feet and the map was divided into precincts: "We can do it block-by-block," Walter said, "but I don't have the codes here right now."

Never mind, Walter called up tables for Feighan's district: "Suppose we wanted to put more minority voters there." He moved the mouse and pressed a button. A line magically appeared around a rhombus-shaped section of Stokes's red territory, which shuddered once and turned green. Feighan's minority numbers rose.

Walter can print out drawings, print out tables or use other data to make new tables and print them out—by precinct, by county, by district, by state. "A lot of members come in here and they're kind of dazed for the first couple of hours," Walter said, "But really, it's easy."

The News & Observer
January 13, 1992

I-85 no route to Congress

Each North Carolina congressional district map-of-the-week seems sillier than the one before. The latest plan, backed by Tar Heel Democratic congressmen and black state legislators, has a string-thin "Aleutian Islands District" straggling from the Virginia border down I-85 to Charlotte. It seines up tiny knots of population and crams them into a mixed bag of a district united only by mostly black skin.

All you can say for the plan is that it has two black districts and protects incumbents. Neither is good enough to be the overriding goal both have become.

Like other districting plans in this state and elsewhere, this one exalts only race and party—at the price of geographic neighborliness and every other attribute that unites or divides human beings. In so doing, it plays hell with common sense and community.

So did the recent Republican plan from state Rep. David Balmer, whose version of a second black district wriggled from Charlotte almost to Jacksonville. So did legislative Democrats' original map—turned down at the U.S. Justice Department because it had only one gerrymandered black district, not two, and hence gave insufficient aid and comfort to either blacks or Republicans.

All the maps are drawn by politicians in the grip of a toxic virus called proportional representation. For the first time in 200 years, this nation is apparently basing its redistricting on that profoundly un-American principle. Unfortunately, computers make it feasible.

Proportional representation is the idea that minorities, political parties and, by inference, any other splinters or

fractions in society should be legally guaranteed the same percentage of the seats in Congress that they have in the population.

If the U.S. Justice Department and an increasingly Republicanized judiciary uphold this principle as the basis for districting, it will radically change our system of government. It flies in the face of the American tradition of consensus and compromise. It will devalue unity and overvalue division.

Yet this revolutionary change has crept almost to realization without anybody noticing except the GOP and black strategists whose odd coalition is making it happen. It has gone so far that Democrats see no way to avoid going along—except, perhaps, at the risk of defeat of some incumbents, a risk they consider too horrid to contemplate.

Legally, a key question is whether a "guaranteed black" district has to be drawn just because it is possible to draw one. The Bush Justice Department seems to be saying "yes." Whether that was Congress' intent is doubtful, but the law is unclear. Sooner or later, courts may have to decide. Given current demographics and the federal bench's Republican shift, they too may say "yes."

Will a combination of computer tricks and GOP judges change the very basis of American government? Will a system that has worked for two centuries be junked for a system where every competing interest claims a lock on a block of seats—and where everything that unites us is trampled in the dust of battle over what divides? The General Assembly, convening today for a special session on redistricting, lacks the power to answer those questions, but at least it should consider them.

It's easy these days to make silly maps, and easier still to make fun of them. But what they could add up to is a nation whose motto is not "E pluribus unum" but "I'll get mine and yours can go hang."

APPENDIX E:
Selected Exhibits to the Motion for Preliminary Injunction

EXHIBIT 1

DECLARATION OF BERNARD GROFMAN

In *Pope et al. v. Blue et al.*, Civ. No. 3:92CV71-P, U.S. District Court, Western District, Charlotte Division

March 5, 1992

I Bernard Grofman declare that the information provided below is true to the best of my knowledge.

1. I am a Professor of Political Science at the University of California, Irvine and a specialist in reapportionment and comparative election systems. I am Chair of the Section on Representation and Electoral Systems of the American Political Science Association. I have served as an expert witness in numerous federal voting rights cases over the past decade, including *Gingles v. Edmisten*, 590 F. Supp. 345 (E.D.N.C. 1984) heard sub nom. *Thornburg v. Gingles*, 478 U.S. 30 (1986). Attached to this declaration is a copy of my current academic resume. I have been retained by plaintiffs in this case to review the proposed North Carolina congressional plan with respect to standard criteria of redistricting.

2. The North Carolina congressional plan appears to be substantially and egregiously flawed in a number of ways that support the claim that it unconstitutionally violates the rights to equal protection of the citizens and voters of the State of North Carolina under the 14th Amendment. These apparent flaws fall into at least three categories: (a) the plan violates contiguity, (b) some districts are so distorted and tortuous that voter confusion is unavoidable, since there is no way to characterize the district boundaries in a way that can readily be communicated to the citizens of the state, thus damaging the realistic possibility

of "fair and effective representation,"[1] (c) a number of the district lines have been drawn in a capricious and arbitrary manner, creating a "crazy-quilt" pattern that serves no rational state purpose, while at the same time violating standard criteria of redistricting. Moreover, (d) the contorted nature of the present congressional boundaries (especially that of Congressional district 12) was not required for compliance with Section 5 of the Voting Rights Act, and (e) voting rights justifications offered for the plan are a largely pretextual mask for contrivances designed to protect the reelections of non-retiring incumbent members of congress.

(a) Contiguity

3. North Carolina's proposed congressional map appears to violate a contiguity test. Contiguity is fundamental to any notion of districting based on geography. Reviewing the maps made available to me by counsel for plaintiffs and reproduced in their complaint filed on February 28, 1992, it appears that either Congressional District 12 splits Congressional District 6 into two discontiguous pieces or Congressional District 6 splits Congressional District 12 into two discontiguous pieces (or both). From the map, Congressional District 12 appears to pass through one side of District 6 and emerge from out the other side. If that does not result in District 6 being bisected into discontinguous pieces, the State of North Carolina would appear to be exercising skills superior to those of the late Houdini's famous "sawing a woman in half" trick.

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[1] The term "fair and effective representation" comes from the Opinion of the Court in *Reynolds v. Sims*. The sentence which uses it begins: "Since the achieving of fair and effective representation is concededly the basic aim of legislative apportionment" (377 U.S. 533 at 565-566), and continues with an application of that standard to malaportionment. Only in terms of a concern for rights to fair and effective representation can we understand the Supreme Court's fundamental motivation in entering what was being characterized as the "political thicket" of reapportionment and redistricting.

4. Based on the allegations in plaintiffs' complaint filed on February 28, 1992, at p. 27, it further appears that the claim to contiguity of Districts 6 and 12 is based on using the southbound lanes of I-85 to connect otherwise disjoint pieces of District 6, while using the northbound lanes of I-85 to connect otherwise disjoint pieces of District 12 in one county, with the pattern reversed in an adjacent county. In another county, the contiguity of District 12 appears to be achieved only along a railroad right of way. If contiguity is permitted via only one lane of a road, then it is possible to draw districts from one end of a state to the other that pick up dispersed populations without any regard for geographical proximity. Indeed, virtually any pieces of territory in a state can be simultaneously connected to one another in such a fashion. This is an open invitation to the most blatant and egregious form of gerrymandering, and makes a mockery of the notion of territorially based districting.

(b) Cognizability

5. The notion that representation should be based on geographically defined districts presumes that the link between a representative and his or her constituents is facilitated by candidates being able to campaign in geographically defined areas where door to door campaigning is possible and/or where access to constituents via media channels (e.g. newspapers and radio and TV stations) is made easier by the existence of common sources of information. Even more importantly, in geographically defined districts, the ability of voters to organize and mobilize on behalf of candidates and to collectively organize to influence their current representatives on behalf of policy changes is facilitated by the prospects for door to door organization and information campaigns conducted through use of common media. Moreover, the "cognizability" of district boundaries that comes when those boundaries can be clearly identified in terms of proximate

geography facilitates voter identification of and with the district.[2] Permitting districts to be constructed whose boundaries are simply not definable in common sense terms vitiates the principle that representatives are to be elected from geographically defined districts and vitiates the advantages of such districts as the basis of electoral choice. Also, when districts are not "cognizable" it is especially hard to dislodge incumbents, because there is no straightforward geographical basis of electoral organization for change and the costs of campaigning are increased.

5. Cognizability, per se, has not been the subject of previous case law, but egregious violations of the cognizability principle can be identified by making use of standard criteria of districting such as violation of natural geographic boundaries, grossly unnecessary splittings of local subunit boundaries (such as city and county lines), and sundering of proximate and contiguous natural communities of interests (see Bernard Grofman, "Criteria for Districting: A Social Science Perspective," *UCLA Law Review,* October 1985; Cf. Claudia Kadis, President of the League of Women Voters of North Carolina, "Districts Should Reflect Communities." *Greensboro News and Record,* February 2, 1992, included in the appendix to Andrew Wright's Affidavit in this case) I would emphasize, however, that it is not ill-compactness, *per se,* that is at issue. Some districts may appear ill-compact because they follow natural geographic boundaries (such as coastlines), or use as building blocks whole cities (or whole units of census geography) that are themselves not especially compact, and yet still be readily cognizable to their voters and to their legislators.

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[2] By "cognizability" I refer to the ability of a legislator to define, *in common sense terms, based on geographical referents,* the characteristics of his or her geographic constituency. I should emphasize that, in my view, the appropriate test of cognizability is not whether the voters do know the boundaries of the district in which they reside, but whether those boundaries could, in principle, be explained to them in simple common sense terms.

6. By any reasonable test, North Carolina's 12th Congressional District would appear to violate a cognizability standard. The district stretches like a slender snake with unsightly bulges,[3] over a significant portion of the state, emcompassing isolated pieces of diverse counties and political communities, involving multiple media markets, and connected over part of the district only by a corridor along I-85.

(c) Crazy quilt pattern lacking rational state purpose

7. In *Baker v. Carr,* 369 U.S. 186 at 254, in a concurring opinion, Justice Clark characterized population disparities in Tennessee's legislative plan as a "topsy-turvical of giant-proportions. This is not to say that some of the disparities cannot be explained, but when the entire [pattern] . . . is examined . . . it leaves but one conclusion, namely that Tennessee's apportionment is a crazy quilt without rational basis." In like manner, even though there may be legitimate explanations for some of its peculiar features, it appears fair to characterize North Carolina's proposed congressional plan, on balance, as a crazy quilt without

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[3] My characterization of the Congressional District 12 as a snake with unsightly bulges is mild compared to the way the plan was characterized by North Carolina political observers. My own personal favorite is the description of the district by political columnist Mark Barrett (January 12, 1992, reproduced in Appendix to Wright Affidavit). Apparently the initial map showing the plan colored District 12 yellow, leading Barrett to say that "the district resembles the stain that might might be left if a giant with yellow blood were stabbed in Charlotte, staggered across the Piedmont and fell to the ground and bled to death on the Virginia line." Of course, as I emphasized above it is not the visual esthetics of the plan, as such, that is at issue, but rather whether: (1) The plan as a whole does not satisfy contiguity requirements, and/or (2) contains districts at least one of which fails any reasonable cognizability test, and/or (3) can be characterized as a crazy quilt lacking rational purpose.

rational basis except as incumbency protection.[4] A total of 44 counties have been split into two or more congressional districts, a total of 7 counties have been split into three or more congressional districts. Such massive violations of political subunit boundaries cannot be justified in terms of population equalization considerations, nor any other legitimate state purpose. Congressional District 12, for example, consists of pieces of 16 counties whose splitting was not necessitated by population considerations. Moreover, for five of the counties and two of the cities contained in part within the 12th District we find pieces of those counties and cities also contained in *two* additional congressional districts (see Complaint, p. 28), suggesting that the additional fragmentation is almost certainly for political purposes.

A 1992 editorial in the *Wall Street Journal* (February 4, 1992, reproduced in the Appendix to the Wright Affidavit) refers to North Carolina's congressional plan plan [sic] as "Political Pornography," but even more important for the issues in this case is the perception by local observers throughout the state of the extent to which the plan is a crazy quilt without rationality. An Editorial in the *Raleigh News and Observer* (January 13, 1992, reprinted in the Appendix to the Wright Affidavit, emphasis added) said that it *"plays hell with common sense and community."* An editorial in the *Raleigh News and Observer* (January 21, 1992, reproduced in the Appendix to the Wright memo, emphasis added) says: "If a psychiatrist substituted North Carolina's proposeed [sic] congressional

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[4] It is my understanding that none of the proposed congressional districts contains the home of more than one non-retiring Democratic incumbent and I believe that is also true for Republican incumbents, i.e. each incumbent has been guaranteed a district to run from. I have not reviewed the plan's probable partisan consequences, and cannot comment on the extent to which the congressional plan advantages Democrats—a claim made in a number of the newspaper editorials reproduced in the Appendix to Andrew Wright's Affidavit in this case.

redistricting maps for Rorschach inkblot tests, diagnoses of wackiness would jump dramatically. *The maps . . . don't make any sense—to people who have any sense.*" Numerous other examples of similar language are contained in the many editorial and news columns reproduced in the Appendix to Andrew Wright's Affidavit.

(d) Configuration not required by Section 5 of the Voting Rights Act

8. The Voting Rights Act is designed to protect against redistricting plans or electoral practices that have the purpose or effect of "minimizing or cancelling out" the voting strength of certain identified minority groups (including blacks and Native Americans) which have been the victims of discrimination. Section 5 places the burden on jurisdictions covered by that Section (in North Carolina, 40 of the state's 100 counties) to convince the U.S. Department of Justice (or the Federal District Court in the District of Columbia) that a plan or practice has neither discriminatory intent nor discriminatory effect. Section 2 of the Voting Rights Act (as amended in 1982) applies to all jurisdictions. It requires that minority groups specified in the Act not be denied an "equal opportunity to participate in the political process and to elect candidates of choice." Section 2 of the Act was reviewed by the Supreme Court in *Thornburg v. Gingles* in 1986, a case involving a challenge to North Carolina legislative districts. In *Thornburg* the Court set evidentiary standards for challenges to multimember district elections. Those standards have been subsequently interpreted by other federal courts in both the multimember and the single member district context. (see. eg. [sic], *Garza v. Los Angeles County Board of Supervisors,* 918 F. 2d 763 (9th Cir. 1990)). Subsequent to *Thornburg,* the U.S. Department of Justice promulgated new standards for Section 5 enforcement that incorporated elements of Section 2 into the Section 5 preclearance process (28 C. F. R. 51).

9. The Section 5 preclearance denial letter of December 18, 1991 from Assistant Attorney General John Dunne indicated that the configuration of Congressional District 2 (the only black majority district in the initial congressional submission from North Carolina—subsequently revised somewhat in shape and renumbered District 1) was not required to achieve the purpose of avoiding minority vote dilution. "The *unusually convoluted shape of that district does not appear to have been necessary to create a majority black district* and indeed, at least one alternative configuration was available that would have been more compact" (Dunne letter at p. 4, emphasis added).

10. As is obvious from the quote above, it is simply inaccurate to say that the tortuous shape of the black majority congressional district in northeastern North Carolina was required to comply with Section 5. Moreover, it should be even more obvious that, or the U.S. Department of Justice's Section 5 enforcement cannot be blamed for the tortuous construction of districts outside the minority areas. The fact that there has been a Section 5 preclearance does not mean that the Justice Department views the plan that has been precleared as the only plan that could have satisfied Section 5. In general, there will be many plans that can satisfy a Section 5 or Section 2 test.

11. The preclearance denial letter of December 18, 1991 from Assistant Attorney General John Dunne also indicated that failure to create a second "majority minority" district in the *southeastern* portion of the state had led to a Justice Department decision to deny preclearance to North Carolina's initial congressional submission. "(T)he proposed configuration of the district boundary lines in the *south central to southeastern* part of the state appear to minimize minority voting strength given the significant minority population in this area of the state. In general, it appears that the state chose not to give effect to black and Native American voting strength *in this area*, even though it seems that boundary lines that were no more

irregular than found elsewhere in the proposed plan could have been drawn to recognize such minority concentration *in this area of the state*" (Dunne letter at p. 5, emphasis added).

12. They request from the Justice Department that a second majority minority district be drawn in the *southeastern* portion of the state clearly cannot be held to have compelled the North Carolina legislature to have created a snakelike majority minority district in the *northern* part of the state.

13. Justice Department preclearance cannot be taken as an endorsement of any of the districts in the plan. The fact that there has been a Section 5 preclearance of a plan does not even mean that the Justice Department views that plan at satisfying the U.S. Constitution. The limited concern of the Justice Department, as an administrative agency charged with enforcing the Voting Rights Act, is the question of whether a plan has the effect or purpose of minimizing or cancelling out the voting strength of designated minority groups. The initial preclearance denial letter of December 18, 1991 from the U.S. Department of Justice indicated that despite the tortuous shape of Congressional District 2, it did not minimize or cancel out minority voting strength and thus could be precleared. The final preclearance letter of February 6, 1992 from Assistant Attorney General John Dunne precleared the revised North Carolina congressional plan without further comments on the shape of the districts in it. It also noted that the "failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes" (Dunne letter at p. 1).

13. Justice Department preclearance cannot preclude a plan from being challenged under a constitutional claim, such as those raised in this case. Indeed, Section 5 preclearance has not even prevented a plan from subsequently being overturned as a violation of Section 2 of the Voting Rights

Act. This is exactly what happened to legislative districts in one area of North Carolina in *Thornburg v. Gingles* and to a 1980s Louisiana congressional plan in *Major v. Treen.* 574 F. Supp. 325 (E.D. La. 1983).

(e) Pretextual nature of a Voting Rights defense of the North Carolina congressional plan

14. While I have not myself drawn alternative plans for North Carolina's congressional districts, based on Attorney General Dunne's letters, there appear to be alternative configurations for North Carolina's congressional districts that can meet constitutional equal protection standards and satisfy Section 5 and Section 2 of the Voting Rights Act without shapes as bizarre and non-cognizable as those found in the proposed plan.

(f) General observations

15. I believe that considerable deference should be given to legislative plans that do not minimize or cancel out minority voting strength that also satisfy one person, one vote standards. Equal protection considerations to avoid minority vote dilution are constitutionally derived and thus have far greater force than other districting criteria such as compactness or non-crossing of political subunit boundaries that, standing alone, lack such constitutional mooring. Nonetheless, it is my view that the Voting Rights Act does not require that completely non-proximate minority population concentrations (such as those aggregated in North Carolina's proposed 12th Congressional District) be joined without *any* consideration to other districting criteria, especially the cognizability of the districts and whether the districts as a whole make any sense from community of interest and geographic perspectives. A "crazy quilt" pattern devoid of overall rationality except as a computer exercise for incumbent protection or partisan gain can, in my view, be a denial of equal protection.

The Voting Rights Act can be considered a legislative recognition of what I have called the "politics of second best" (Bernard Grofman, Lisa Handley and Richard Niemi, *Minority Representation and the Quest for Voting Equality*, Chapter 6, Cambridge University Press, 1992 forthcoming), i.e., a recognition that, while we would all prefer to live in a world that was "color blind," problems raised by racially polarized voting patterns, residential segregation, and lack of minority electoral success that can be attributed to white bloc voting, require color conscious remedies. I am very zealous that the protections it extends to minority voting rights not in any way be infringed upon. However, as long as districting is done on the basis of geography, the nature of *Thornburg's* three part test for minority vote dilution requires us to look at where minority populations are located. It does not tell us to look simply at statewide minority percentages and then craft districts to seek to achieve maximum representation without concern for the extent to which the district represent cognizable units of geography; it does not require hopskotching *willy nilly* down a *narrow corridor* over an interstate highway *over much of a state* to pick out *isolated pockets* of minority voters.

Neither Section 2 nor Section 5 require that jurisdictions create districts with the maximum possible minority population concentrations without respect to other considerations such as the geographic dispersion of the group's members. Rather, they are designed to insure that minority *population concentrations* are neither fragmented in such a fashion as to deny minorities districts in which they have a "realistic opportunity to elect candidates of choice" (often referred to as "cracking") nor "packed" (i.e., collapsed into districts in such a fashion as to "waste" minority voting strength in districts that contain disproportionately large minority populations relative to what is needed for a "realistic opportunity to elect candidates of choice.") See Bernard Grofman and Lisa Han-

dley, "Identifying and Remedying Racial Gerrymandering in Single Member Districts," *Journal of Law and Politics*, March 1992 forthcoming.

Bernard Grofman
Bernard Grofman

March 5, 1992

[CERTIFICATE OF SERVICE
OMITTED IN THIS PRINTING]

EXHIBIT 2

DISTRICT OF COLUMBIA

Affidavit of Dr. Thomas B. Hofeller

POPE V. BLUE

Thomas B. Hofeller first being duly sworn, deposes and says:

I am Thomas B. Hofeller. I reside at 8212 Cedar Landing Road, Alexandria, Virginia, 22306. I am currently employed as Director of Redistricting for the National Republican Congressional Committee, located at 320 First Street, S.E., Washington, D.C., 20003. In 1980 I received a Ph.D. in Government from the Claremont Graduate School, located in Claremont, California. I have offered testimony in numerous court cases involving redistricting in all areas of the country. Among those states are California, Mississippi, Illinois and North Carolina.

In my capacity as a redistricting consultant, Redistricting Director for the Republican National Committee (1982-83), Director of Computer Services for the Republican National Committee (1982-89), and in my present employment, I have been in a unique position to evaluate redistricting plans for state legislative and congressional districts from all over the United States.

I have examined the second congressional plan passed by the North Carolina Legislature (1991 Extra Session, Chapter 7, House Bill 3) and approved by the U.S. Attorney General and find the following:

1. North Carolina, having received one additional congressional district as a result of the 1991 Reapportionment of the U.S. House of Representatives, has been redistricted into 12 new congressional districts—as opposed to 11 districts in 1982.

2. The populations of the 12 districts are as close together as is possible, varying by one person from the highest to the lowest. As a result of my experience as a line drafter in numerous states, I can say without any reservation whatsoever that the attainment of such a close variance in population is absolutely no problem using the types of computer systems available today. Furthermore, equal population is no justification for lack of compactness in congressional redistricting, even though it is erroneously used as an excuse for misshapen district configurations.

3. Two of the new districts, numbers 2 and 12 contain substantial black populations, both exceeding 53% in terms of persons of voting age. It is also a fact that the districts, as drawn, do not represent the only possible configuration which would result in two black districts of the same percentage or higher.

4. Of the state congressional plans passed to date across the entire nation, North Carolina's districts are the most bizarre in configuration, followed closely only by Texas. North Carolina's new 12th Congressional District is clearly the most gerrymandered in the nation.

5. The 12th District is essentially a grouping of the black communities of Gastonia, Charlotte, Winston-Salem, High Point, Greensboro and Durham connected by thin corridors running the counties in which those cities are located, plus equally thin corridors running through Orange, Alamance, Davidson, Iredell and Rowan Counties. The connecting corridors running through these five counties contain less than 18% of the district's total population and an average black percentage of less than 40%.

6. In numerous places the width of the district is one or two blocks, and in several places the district has no width, being contiguous only by touch points.

7. For the first time that I have ever observed, the 12th District trisects another district. It divides the new 6th

District into three sections which connect only by touch points at which the 6th going in one directions [sic] goes right through the 12th District.

8. The intrusion of the 12th district into Gaston County was unnecessary. The portion of Gaston County contained in the 12th has a population of 11,477 with a black percentage of 64%. The boundaries of the 12th District in Winston-Salem (Forsyth County) could have been extended outward to include 11,478 persons of which 79% would have been black. This would have resulted in one less county being divided and in a 12th District with a higher percentage of blacks.

9. The 12th District scores extremely low on three measurements of compactness accepted as standard in redistricting. The district's perimeter circle percentage is 1.35%. The district's circumscribing circle percentage is 5.02%. The district's population compactness percentage is 37.99%. As a point of comparison, the 1992 congressional districts plans being proposed to a federal court in Michigan have 22.36%, 21.77%, and 45.59% respectively for the WORST district, and an average of 35%, 39%, and 71% respectively for all of the state's districts.

10. Politically the new plan creates two new black and overwhelmingly Democratic districts—one being the new 12th District and the other being a transformed 1st District presently being held by Rep. Jones (D). The districts of three Republican congressmen, Rep. Coble, Rep. McMillan, and Rep. Ballenger are all improved for them by 6 percentage points or more. The district of GOP Rep. Tayor [sic] already a competitive district has been moved about 2 percentage points in favor of the Democrats. The district of Democratic Rep. Valentine has been moved about 11 percentage points as a result of the creation of black district number 2. Instead of being totally beyond the reach of the GOP the district is now in the marginal Democratic range—at about the same point as Rep. Neal's (D) old

district. The remaining districts, all belonging to Democrats, still remain well within the safe Democratic range.

11. The strategy of the development of the plan appears to have been to pull the black populations needed for the formation of the new black 1st District from Democratic districts in the eastern portion of the State. In the formation of the new black 12th District, the strategy was to avoid pulling blacks from Raleigh, which would weaken Rep. Rose (D), and from Winston-Salem, which would weaken Rep. Neal (D). The alternative was to reach down into Charlotte and Gastonia an [sic] pull black voters from GOP districts. In this way the Democrats constructing the plan could avoid the possible weakening of already vulnerable incumbent Democrats.

12. Finally a totally unnecessary gerrymander of the western third of the State was executed. The new 5th District was extended far into the 10th District, almost cutting the 10th District in half. This was done to extract Democrats from the 10th and cast off Republicans into the 10th to improve Rep. Neal's (D) new district (5). The 10th District, in turn was forced into the 11th District to extract Republicans from the 11th, giving them to the 10th. At the same time more Democrats were added to the 11th from the 10th. The result was an overly strengthened Rep. Ballenger (R-10) and a seriously weakened Rep. Taylor (R-11).

I hereby affirm that all of the foregoing is true to the best of my knowledge under penalty of perjury under the laws of the District of Columbia and the United States and that I am willing to testify to this matter before the court.

(S) Dr. Thomas B. Hofeller
Dr. Thomas B. Hofeller

Sworn and subscribed to this 5th day, of March, 1992, in the City of Washington, District of Columbia.

Larry C. Guilder
Notary Public

My Commission Expires July 14, 1992

EXHIBIT 3

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL ACTION NO. 92:CV71-P

JAMES ARTHUR "ART" POPE, et al.,
Plaintiffs,

v.

DANIEL T. BLUE, JR., et al.,
Defendants.

I, Cass Ballenger, Congressman, 10th Congressional District of North Carolina, 328 Cannon House Office Building, Washington, D.C. 20515-3310, being duly sworn deposes and says as follows:

1. I am the Congressman representing the 10th Congressional District of North Carolina in the United States House of Representatives and have held this position since November 1986.

2. Prior to the 1992 North Carolina Congressional Redistricting Plan, the 10th District included six counties and a portion of a seventh county.

3. In 1991, my District office in Hickory and Gastonia assisted nearly 7,000 voters with difficulties involving social security and veterans benefits, medicaid and medicare, passports, tax matters and other issues. My staff members also were regularly available in Avery and Watauga Counties to help constituents and were available on a weekly basis in Cleveland, Burks and Caldwell Counties.

4. Pursuant to the 1992 North Carolina Congressional Redistricting Plan ("the Redistricting Plan"), the 10th Dis-

trict now includes seventeen counties. Of these seventeen counties, eleven are split between one or more congressional districts. The contours of the new 10th District divide many communities and include many unlike communities within a single district. Under the new redistricting plan many of the segments of counties included in the 10th District do not contain a city, post office or major telephone exchange.

5. The portion of Forsyth County included in the 10th District does not include Winston-Salem.

6. The portion of Davie County included in the 10th District does not include Mocksville.

7. The portion of Wilkes County included in the 10th District does not include North Wilkesboro.

8. The portion of Caldwell County included in the 10th District does not include Lenoir.

9. The portion of Burke County included in the 10th District does not include Morganton.

10. The portion of McDowell County included in the 10th District does not include Marion.

11. The portion of Buncombe County included in the 10th District does not include Asheville.

12. The portion of Rutherford County included in the 10th District does not include Forest City.

13. The portion of Henderson County included in the 10th District does not include Hendersonville.

14. In the above counties, it will be extremely difficult to serve voters due to the lack of towns in which to hold meetings and in which my staff may meet with constituents to help them with their problems.

15.The Redistricting Plan makes it logistically difficult for my staff to provide the people of the 10th District with an acceptable level of constituent service.

16. The contorted shape of the 10th District divides regional and local communities and creates an irregular district which is difficult to represent effectively due to conflicting local, regional and community interests.

17. The Redistricting Plan will confuse voters as to the identity of their representatives, will complicate congressional elections and will lead to voter apathy.

18. I am familiar with the 12th Congressional District of North Carolina as established by the Redistricting Plan.

19. It is my opinion based upon my six years experience as a Congressman that the 12th District will be even more difficult to effectively represent than the 10th District due to the fact that the 12th District divides counties, individual cities and towns, and other communities into separate Congressional districts to a greater extent than the 10th and is more contorted than the 10th District. As a result, I believe that voters in the 12th District will be severely limited in their access to their representatives and as a result will be denied the ability to express their views and to obtain the assistance of their representative. Furthermore, I believe that the Congressman representing the 12th District will have great difficulty effectively representing the 12th District due to the district's geographic and political incoherence and regional diversity.

/s/ Cass Ballenger
CASS BALLENGER, Affiant

Sworn to and subscribed before me this the 5th day of March, 1992.

/s/ Paul Zeto
Notary Public

My commission expires:
July 14, 1994

[CERTIFICATE OF SERVICE OMITTED IN THIS PRINTING]

EXHIBIT 4

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL ACTION NO. 3:92CV71-P

JAMES ARTHUR "ART" POPE, et al.,
Plaintiffs,

v.

DANIEL T. BLUE, JR., et al.,
Defendants.

AFFIDAVIT OF ANDREW C. WRIGHT AND ATTACHED VIDEOTAPES

Attached please find an affidavit by Andrew C. Wright with attached videotapes.

Submitted this the 5th day of March, 1992.

MAUPIN TAYLOR ELLIS & ADAMS, P.A.

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lfm/sc21

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CNN REDISTRICTING

[Report on I-85 District, February 20, 1992]

Pat Etheridge, CNN: Around here they call it the four lane district. Instead of a traditional voting block, one of the nation's newest congressional districts runs from Durham, NC half way across the state to Charlotte, hugging Interstate 85.

Man in restaurant: "It looks kind of like a snake."

Etheridge: The squiggly line was created because North Carolina hasn't elected a black to Congress this century. The Justice Department ordered the state to create black majority districts that might turn the tide. So computer experts went to work and District 12 was born.

Gerry Cohen, Director, North Carolina Legislative Drafting: "It's a collection of black communities in the mid-sized cities that make up the heart of North Carolina."

Etheridge: Meandering some 200 miles alongside Ho-Jo's, Waffle Houses and weight stations, it's anything but compact. More than half a million people live along District 12. So, campaigning could take on a sprawling new style.

H. M. "Michey" Michaux, 12th District Congressional Candidate: "You can have a rally off of every exit off of Interstate 85 and touch all the people."

Etheridge: Truck stops, some suggest, might serve as polling places.

Alex Brock, North Carolina Board of Elections: "We will have voting stations where you just drive up and vote, like a Hardee's or McDonald's, I'm sure."

Etheridge: Cartoonists are having a hay day with a district line thin enough to spit across, Just to drive the point home, part of the path is so narrow that the northbound lane of the Interstate is in the new District 12, while the

southbound lane lies in another. The state GOP leader believes it has less to do with electing minorities than keeping Republicans out of office. He charges old fashioned gerrymandering and is fighting back with a law suit.

Jack Hawke, North Carolina GOP Chairman: "Well, I frankly think it just destroys the very fabric of our representative form of government. You'll no longer have a system where people know who their congressman is, who's representing them, nor do the congressmen really know what their district is when they have such a spread out district."

Etheridge: Even civil rights foot soldier, Congressman John Lewis, believes this application of the Voting Rights Act may have gone too far.

Rep. John Lewis, (D) Georgia: "My greatest fear is that we will create pockets of townships, not pockets of political power, but we will create something very similar to townships in South Africa."

Etheridge: Contorted as it may seem, District 12 is not unique. The State of Florida has another interstate district on the drawing board. There is a Hispanic district in Illinois shaped like earmuffs and one in Texas that resembles a snowflake.

Prof. Thad Beyle of the University of North Carolina: "I think when we get through with this whole thing, we're going to see a bunch of them. We can probably have a nice exhibit at some museum to see which one was really the most creative."

Etheridge: For now it remains a controversial computer age conception. It reaches out to voters in the name to right past wrongs. And in some cases, redraws political lines right down the divided highway. Pat Etheridge, CNN, along Interstate 85, North Carolina.

ROUND TABLE DISCUSSION OF I-85 REDISTRICTING THIS WEEK WITH DAVID BRINKLEY - 2/23/92

DAVID BRINKLEY: It looks like ketchup spilt on a kitchen floor, is what it looks like, that runs from way over there in the west down to the South Carolina line, about half way, that's a voting district. That's a congressional district. Does that make any sense?

GEORGE WILL: That is just the logic of affirmative action carried to a little bit of extreme, that is now political power is an entitlement. It used to be we had this quaint theory, I think it was called democracy. The voters pick the politicians. Now you see the politicians . . .

DAVID BRINKLEY: With their computers.

GEORGE WILL: pick the voters.

KOKIE ROBERTS: Well, this is . . .

SAM DONALDSON: Kokie, let me just tell him why that line, it is a silly line. I can't defend that kind of line as you saw it on the map.

DAVID BRINKLEY: It follows a highway.

SAM DONALDSON: That's right, in order to create a district where blacks can elect one of their own.

DAVID BRINKLEY: That's fine.

SAM DONALDSON: But, the original idea was to do it in the southeast corner of the state where there are a great number of black Americans and native Americans. But that would have threatened two powerful congressmen, Hefner and Rose. So, in order to protect their seats, the legislature in its wisdom came up with that funny squiggly.

KOKIE ROBERTS: In general . . .

DAVID BRINKLEY: that congressional district, on one side of the road you are in one district, on the other side of the road, for about fifty miles, you are on the other.

SAM DONALDSON: If you had done it logically in the southeast corner of the state, you wouldn't have had that kind of squiggly.

KOKIE ROBERTS: In general, what we are having with these black districts, however, is affirmative action for Republicans. That's what it is. What has happened is, is very cynical move to put blacks together into one district, and to find in this case, every black in the state and put them into one district. So, that the remaining districts are lily white and therefore, are much more Republican then they would be otherwise.

GEORGE WILL: The question is should the government care? Should it be public policy to care, that a certain number of districts are occupied by people with a certain kind of skin pigmentation. The government shouldn't be in the business of sorting people out on these grounds. The constitution of the United States mandates a free society, not an integrated society.

SAM DONALDSON: What a wonderful position. If all districts of course were drawn equally, and drawn in nice, neat little squares, letting the chips fall where they may, that argument might be OK, should the government care? But, since most districts are drawn in order to protect people like Hefner and Rose, good white, solid Americans, then yes, the government should care. You can't enfranchise other people.

GEORGE WILL: When we have term limits none of this is going to matter.

DAVID BRINKLEY: Well, all right . . .

SAM DONALDSON: When we have term limits . . .

DAVID BRINKLEY: Our time is up, time is up, time is up . . .

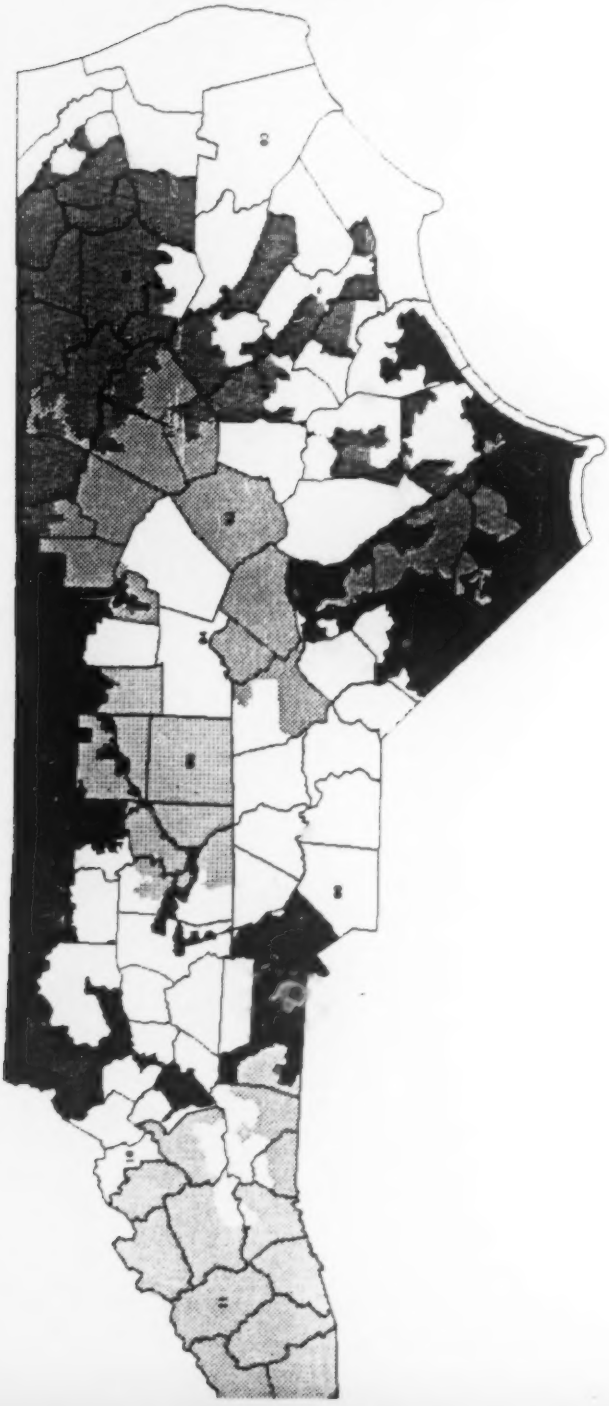
KOKIE ROBERTS: I want to make sure, I would like to fix it so that a majority of the female population gets the fix.

DAVID BRINKLEY: We will be back with a few words about Washington bureaucrats who know what's good for you, even if you don't. In a moment.

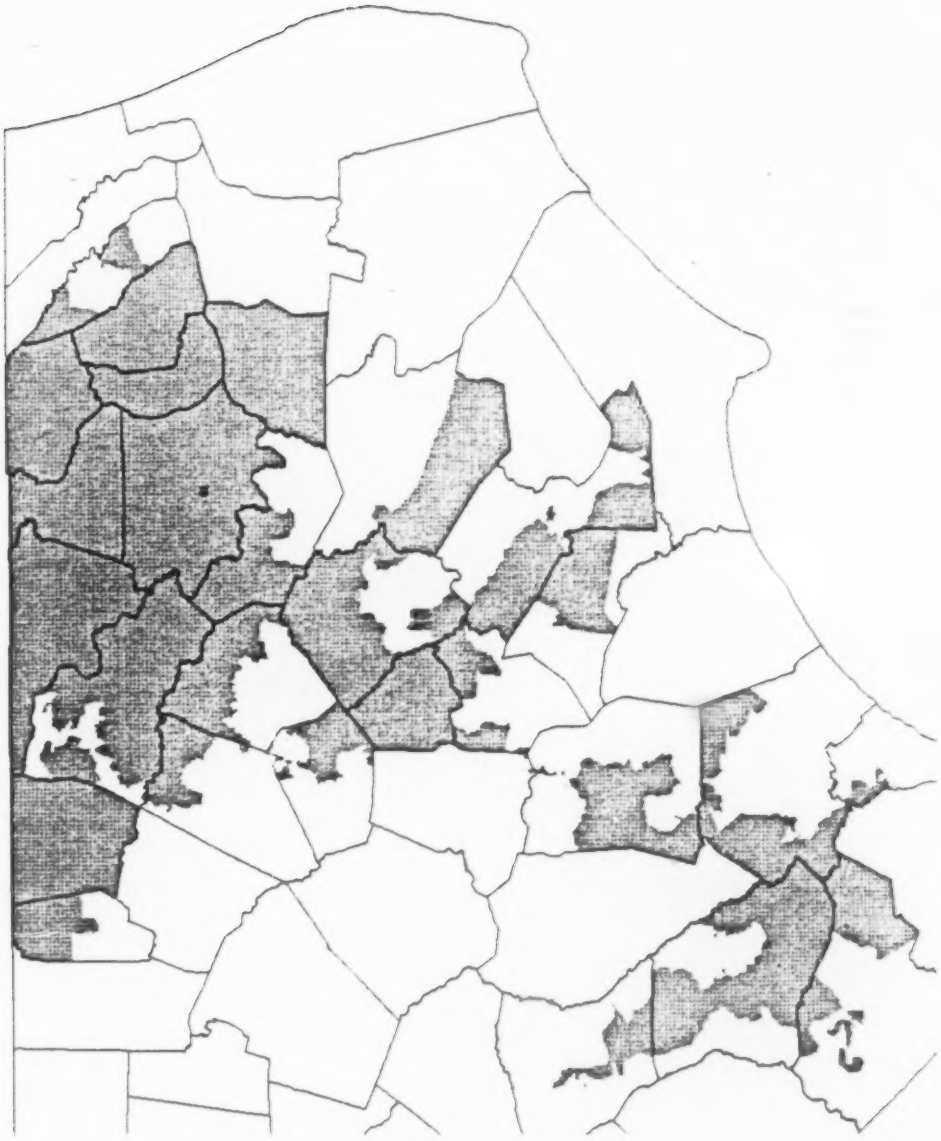
APPENDIX F:
Maps of Individual Congressional Districts

APPENDIX F

North Carolina Congressional Plan
Chapter 7 of the 1991 Session Laws
(1991 Extra Session)



North Carolina Congressional District 1



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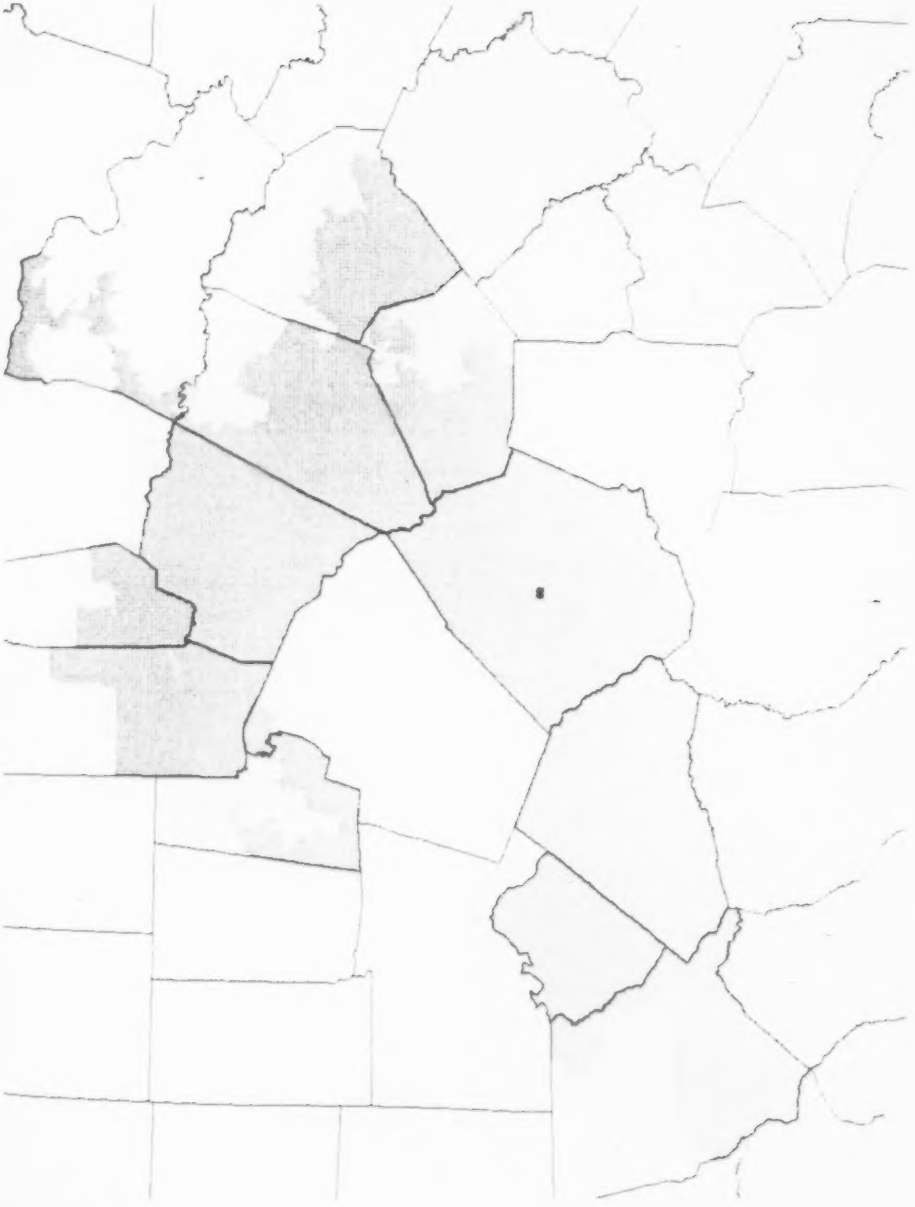
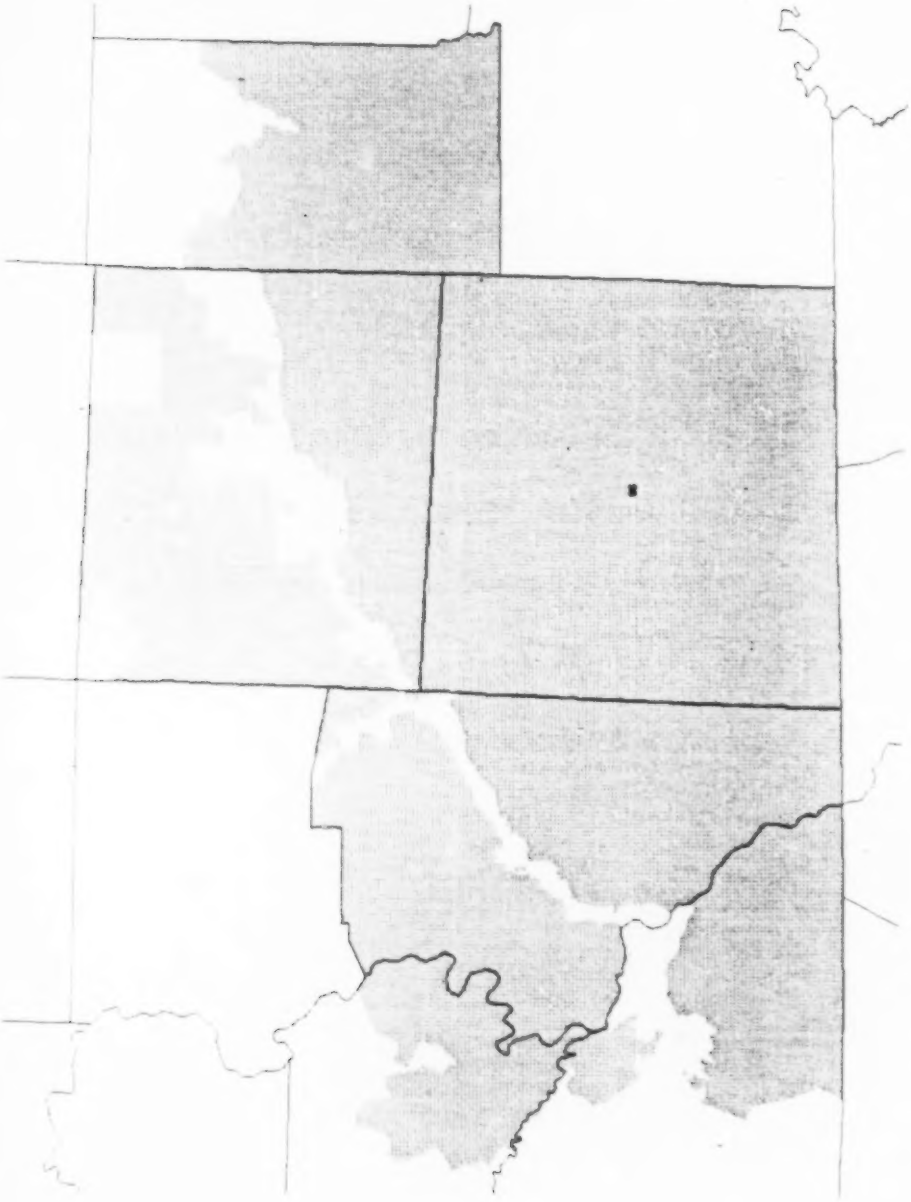


North Carolina Congressional District 3

North Carolina Congressional District 4

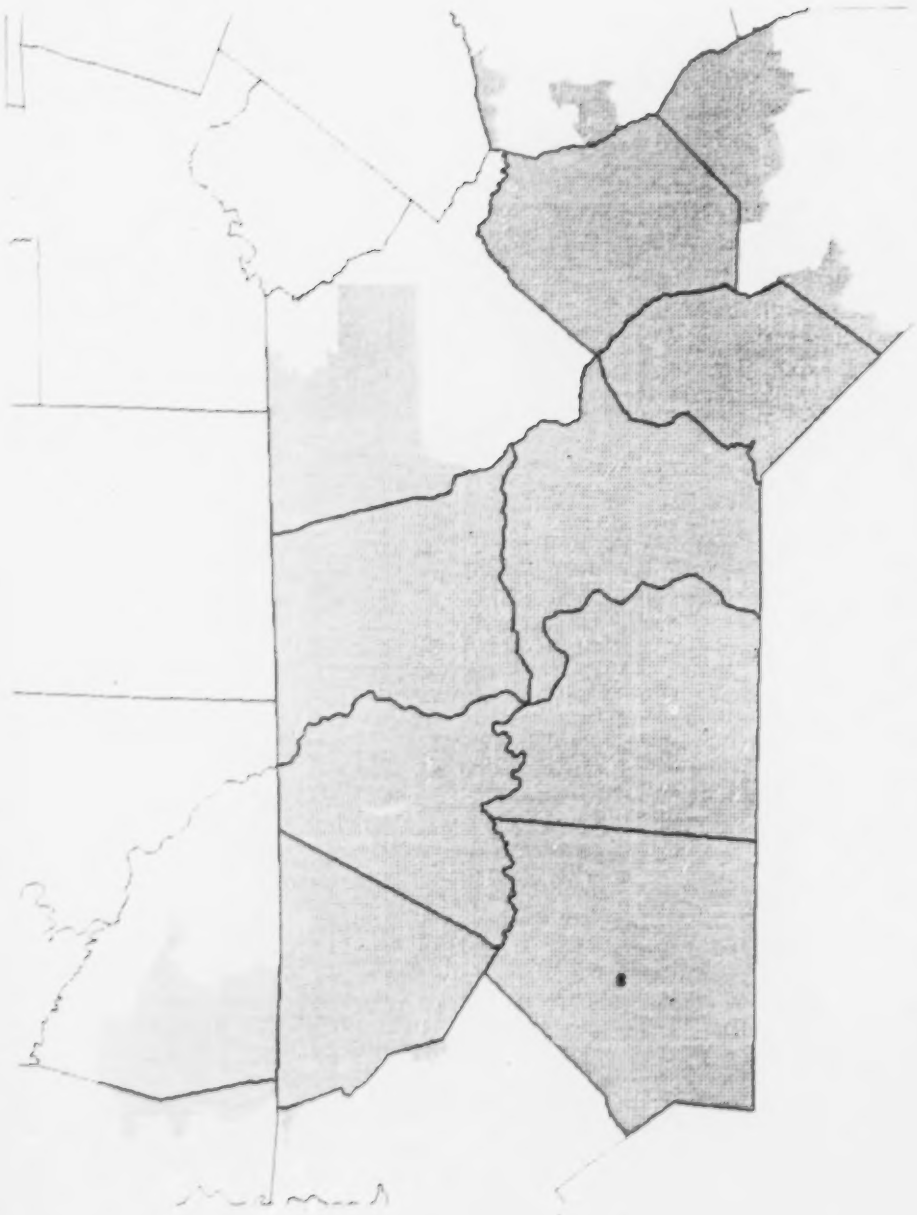
North Carolina Congressional District 5

North Carolina Congressional District 6



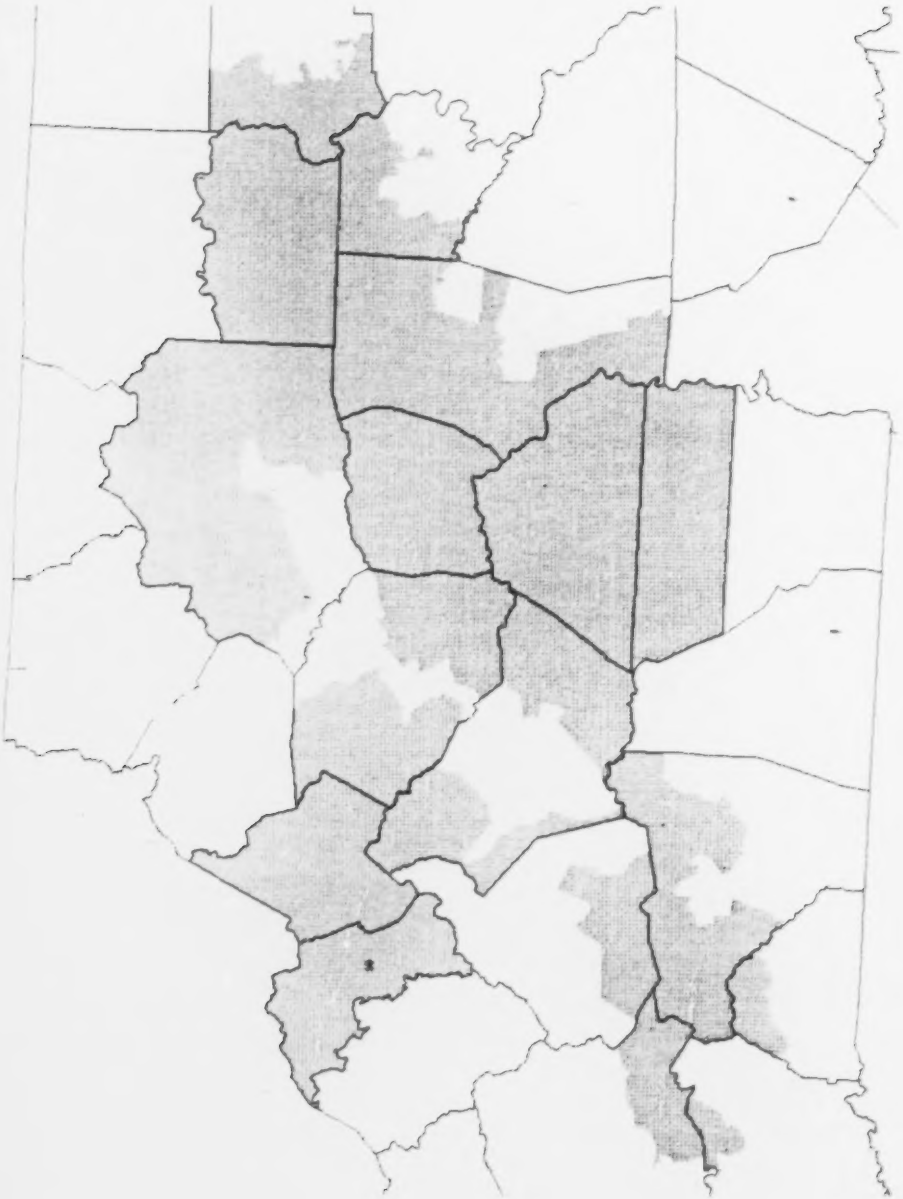
North Carolina Congressional District 7

North Carolina Congressional District 8



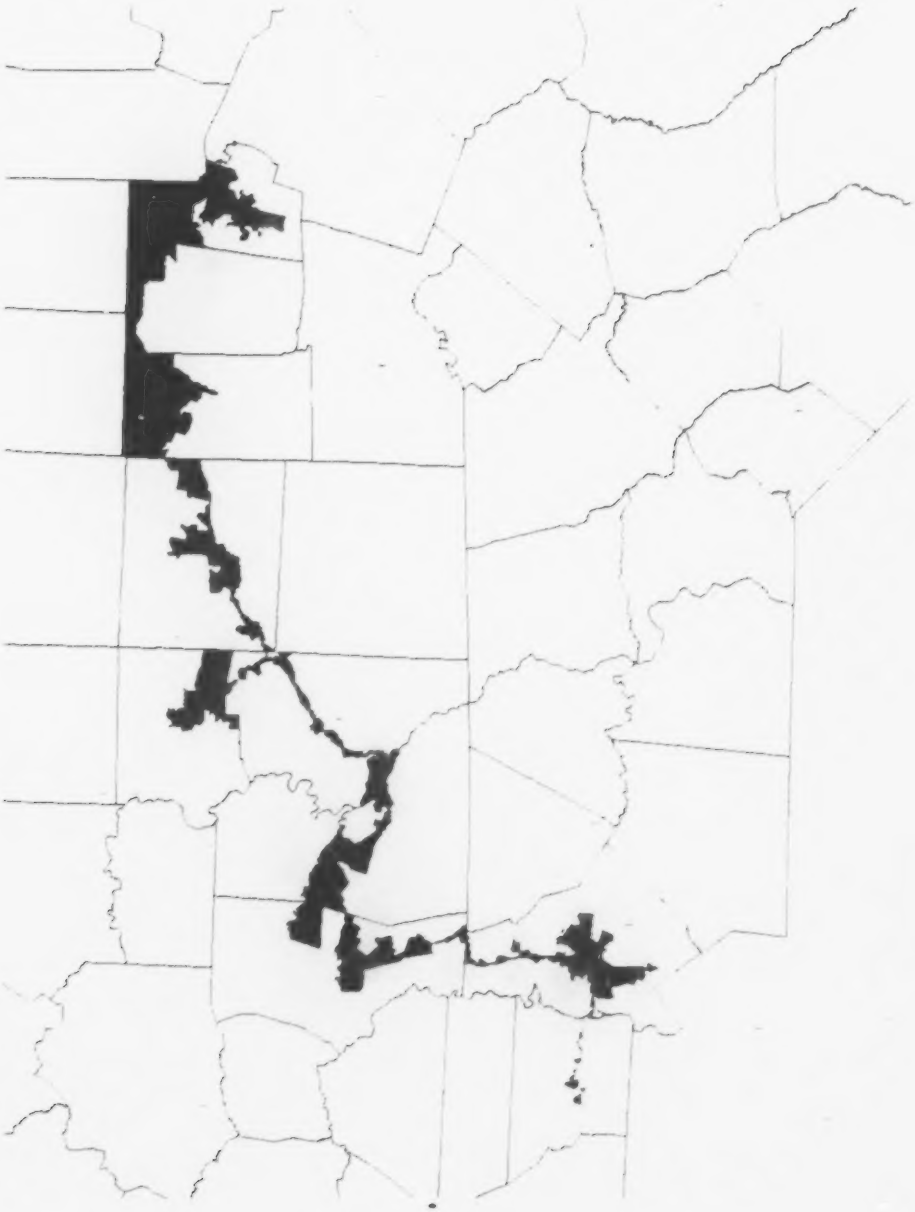
North Carolina Congressional District 9

North Carolina Congressional District 10

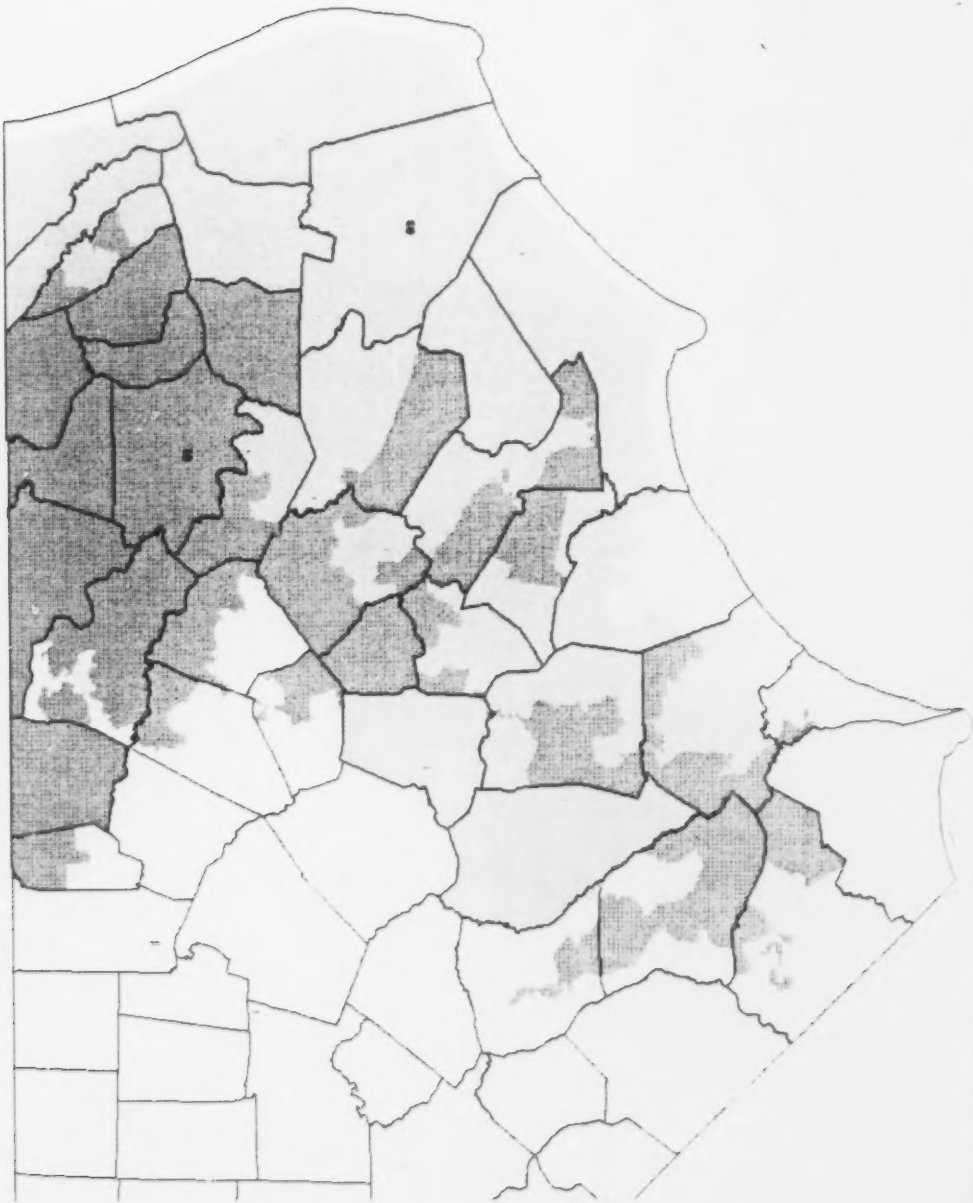


North Carolina Congressional District 11

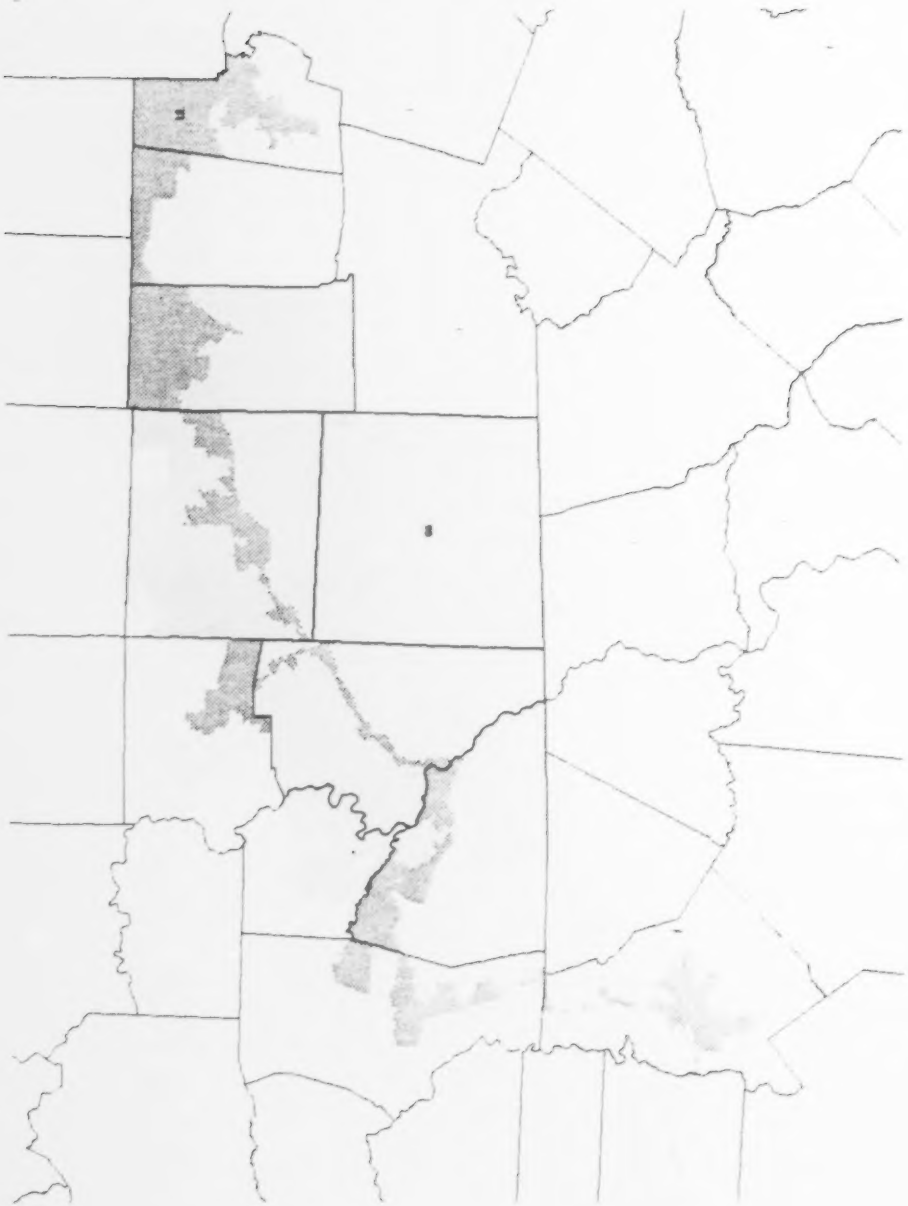
North Carolina Congressional District 12



North Carolina Congressional Districts 1 and 3



North Carolina Congressional District 6 and 12



Detail of North Carolina Congressional Districts 6 and 12 (District 6 is light area; District 12 is darker area).

Supreme Court, U.S.
FILED
JUL 27 1992
OFFICE OF THE CLERK

No. 91-2038

In the

Supreme Court of the United States

October Term, 1991

James Arthur "Art" Pope, *et al.*,
Appellants,

v.

Daniel T. Blue, Jr., *et al.*,
Appellees.

Appeal from the United States District Court for the Western District of North Carolina Charlotte Division

MOTION TO AFFIRM

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QUESTIONS PRESENTED

1. Did appellants state a claim that North Carolina's Congressional Redistricting Plan violates the Equal Protection Clause on the grounds of irrationality?

2. Does article I, section 2 only proscribe districts of unequal population?

3. Did the district court properly dismiss appellants' claims based on the first amendment rights of political association and petition?

4. Did the district court properly dismiss appellants' claim based on the Fourteenth Amendment's Privileges and Immunities Clause?

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In the

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October Term, 1991

James Arthur "Art" Pope, *et al.*,
Appellants,

v.

Daniel T. Blue, Jr., *et al.*,
Appellees.

Appeal from the United States District Court for the Western District of North Carolina Charlotte Division

MOTION TO AFFIRM

The appellees move the Court to affirm the judgment of the three-judge United States District Court for the Western District of North Carolina on the ground that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

STATEMENT OF THE CASE

In this appeal, appellants seek review of the order of a three-judge court dismissing their complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted. The complaint

challenges the Congressional Redistricting Plan enacted by the General Assembly of North Carolina, effective for the 1992 primaries and elections, alleging an unconstitutional gerrymander to protect incumbent Democratic members of Congress and further alleging that the irregularly-shaped districts fracture communities of interest so as to deprive voters of their rights under various provisions of the Constitution.

The complaint, which included a motion for temporary restraining order and preliminary and permanent injunctions, was filed on February 28, 1992. On that date, Judge Robert Potter, United States District Judge for the Western District of North Carolina, entered a temporary restraining order directing the appellee North Carolina State Board of Elections to extend the deadline for filing notice of candidacy for election to the United States House of Representatives from March 2, 1992, until March 10, 1992. In the same order, the court directed the parties to appear on March 9, 1992, to determine whether good cause existed for the court to issue a preliminary injunction.

On March 2, 1992, appellees moved to dismiss the complaint for failure to state a claim upon which relief can be granted and also moved to consolidate the hearing on the motion to dismiss with the hearing on the motion for a preliminary injunction. Appellants subsequently consented to the consolidation of the two motions for hearing. App. at 4a-5a, 20a.[1] On March 3, 1992, Judge Potter allowed appellants' request for expedited discovery, which required appellees to provide voluminous redistricting documents to appellants and

---

[1] References to the Appendix to this Motion to Affirm will be designated "App. at ___."

permitted appellants to take depositions of members of the staff to the North Carolina General Assembly and aides to United States Representatives from North Carolina.

The three-judge court appointed to hear the case, consisting of Chief Judge Sam J. Ervin, III, of the United States Court of Appeals for the Fourth Circuit; Judge W. Earl Britt of the United States District Court for the Eastern District of North Carolina; and Judge Potter, convened the hearing of this case on March 9, 1992. At the commencement of the proceedings, the court informed the parties that it would first deal with the motion to dismiss, "which we will treat as a strict 12(b)(6) motion which of course means we will not examine or get into any documentation or any supporting papers." App. at 1a-2a. When appellants insisted that they should be allowed to offer into evidence additional materials or evidence supplementing their complaint, the court offered appellants the opportunity to amend their complaint. The appellants declined to offer any proposed amendments. App. at 3a-5a.

After hearing all arguments on the motion to dismiss, the court recessed to consider the motion. Upon reconvening, the court offered the parties an opportunity for final comments. The appellants made a one-sentence plea that the case go on, but neither offered any amendment to their complaint nor asked the court to allow them to amend if the court found the complaint defective. App. at 17a. The court then announced its decision in open court, granting the appellees' motion to dismiss and dismissing the case.

The court's order and judgment were filed on April 16, 1992. In an opinion by Judge Ervin, which was joined by

Judge Britt, the court rejected appellants' political gerrymandering claim holding that the complaint does not state a viable equal protection claim as outlined by this Court in *Davis v. Bandemer*, 478 U.S. 109 (1986). The court found that the appellants had not, and under the facts of this case could not, meet the requirements of *Bandemer* for showing discriminatory *effect*, *i.e.*, appellants could not show that they have been or will be consistently denied participation in the entire political process. Jurisdictional Statement Appendix (hereinafter "J.S. App.") at 6a-11a.

Curiously, appellants assert in their Statement of The Case that the district court "erroneously" concluded that the "gravamen of the plaintiffs' case" was a *Bandemer* political gerrymandering claim and that the court "completely disregarded appellants' actual claim" that a rationality test under the Fourteenth Amendment is the appropriate standard to evaluate the constitutionality of North Carolina's Congressional Redistricting Plan. Jurisdictional Statement (hereinafter "J.S.") at p. 11. But it was the appellants themselves who stressed the importance of *Bandemer* to their case. The complaint is replete with allegations about the political control and domination of the North Carolina Democratic Party and the purposeful protection of Democratic incumbents in the redistricting process. *See*, *e.g.*, Complaint ¶¶ 54, 57-58, 62, 64, 76-77, 81-82, 85, 91, J.S. App. at 37a-46a. In addition, more than half of appellants' oral argument on the motion to dismiss concerned appellants' equal protection claim under a *Bandemer* theory: "I think we have a *Bandemer* theory. And under that theory, I believe we have to allege that there's been partisan intent. That there's been some effect and that there's been an exclusion from the

process." App. at 5a-6a. *See also* App. at 6a-14a, 16a.[2] The district court did not mistake the legal theory of the appellants' complaint; instead, the court carefully addressed and rejected as legally insufficient every allegation and claim advanced by appellants.[3]

More curiously, appellants seek review of the district court's decision to dismiss their complaint for failure to state a claim for relief, but repeatedly stray beyond the allegations of their complaint in an effort to marshall facts sufficient to avoid dismissal.[4] Pursuant to Rule 15, Supreme Court Rules, these extra-complaint allegations are catalogued below.

1. Appendix D to the Jurisdictional Statement is labelled by appellants as the "Complaint and Selected Exhibits to the Complaint." The complaint itself references Exhibits 1 - 5 and describes these particular exhibits. Complaint ¶¶ 63, 67-

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[2] Judge Potter, who dissented from the majority opinion, agreed with the majority that appellants were presenting a *Bandemer* claim: he indicated the appellants should have been allowed to present evidence on this claim since in his view the complaint contained "sufficient allegations of both discriminatory intent and effect" to withstand a Rule 12(b)(6) motion to dismiss. J.S. App. at 16a. *See also* App. at 9a-10a.

[3] The district court also rejected appellants' claims under Article I, section 2, J.S. App. at 11a-12a, the speech and petition clauses of the First Amendment, J.S. App. at 12a-14a, and the Fourteenth Amendment Privileges and Immunities Clause, J.S. App. at 14a-15a, concluding that none of these arguments had any merit.

[4] The question whether the complaint is sufficient to withstand a motion to dismiss is limited to a review of the allegations of the complant. For this purpose well-pleaded allegations of the complaint are assumed to be true. *Rutan v. Republican Party of Illinois*, 497 U.S. 62, ___ n. 1, 110 S. Ct. 2729, 2732 n. 1 (1990).

69, J.S. App. at 40a-41a. However, in Appendix D, Complaint Exhibits 2 - 5 have been relabelled or renumbered as Exhibits 1 - 4. This renumbering or relabelling of exhibits would in itself be unremarkable, except that Appendix D contains two so-called Exhibits 5 and 6, which were not exhibits referenced in the complaint,[5] were not attached to the complaint, and were not filed as exhibits or attachments to the complaint. The Exhibit 5 contained in Appendix D is a Declaration by James Arthur "Art" Pope, a Republican member of the North Carolina House of Representatives and a plaintiff in this action. J.S. App. at 148a-150a. The Exhibit 6 contained in Appendix D is the affidavit of Andrew C. Wright, Political Director for the North Carolina Republican Party. The Wright affidavit had attached to it numerous newspaper articles "collected" by Mr. Wright as part of his "responsibilities," of which twelve were selected by appellants for their "Exhibit 6." J.S. App. at 151a-179a. The Pope and Wright affidavits were filed in the district court at the same time the complaint was filed. However, since they are not referenced in or part of the complaint, they can only be considered in support of appellants' motions for a temporary restraining order and a preliminary injunction. These extra-complaint exhibits are referenced extensively by appellants in the Jurisdictional Statement at pages 4-5.

2. Appellants' Statement of the Case contains a number of references to materials obviously not included in the complaint. One sentence begins, "[i]n the period of expedited

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[5] The complaint indicates that Exhibit 5 is a copy of the February 6, 1992, letter from the Department of Justice which precleared the North Carolina Congressional Redistricting Plan. Complaint ¶ 68, J.S. App. at 41a. There is no reference to an Exhibit 6 in the complaint.

discovery, appellants found," and then references allegations about John Merritt and the National Committee for an Effective Congress. J.S. at p. 5. However, there is no allegation anywhere in the complaint about Mr. Merritt or the Committee.

3. Appendix E to the Jurisdictional Statement is identified by appellants as "Selected Exhibits to the Motion for Preliminary Injunction." Clearly, none of these materials were before the district court in ruling on the motion to dismiss, but are referenced throughout the Jurisdictional Statement. *See, e.g.*, J.S. at pp. 6 n. 4, 7 n. 7, 21, 28 & n. 26.

4. Appellants' Appendix F, J.S. App. at 207a-222a, consists of a set of maps of the North Carolina Congressional Redistricting Plan which were never before the district court on the motion to dismiss. In the Statement of the Case, appellants explain that these maps were produced using computerized data obtained from the Legislative Services Office of the North Carolina General Assembly. J.S. at p. 7 n. 6. These maps are then used by appellants to support various statements, including allegations of "single point" contiguity, which are not supported by allegations in any paragraphs of the complaint.[6]

5. In arguing for a constitutional standard of contiguity, appellants assert the "facts alleged about Chapter 7 indicate that several districts are lacking in contiguity." J.S. at

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[6] Appellants assert that "[i]n Iredell County, the twelfth district intersects at a single 'point' with two other districts, at which point the twelfth district 'crosses over' the other two districts and is 'contiguous' at best by a 'point' it shares in common with two other districts". In support of this allegation, appellants reference the maps in Appendix E, J.S. App. at 207a, 213a, 219a, 221a. J.S. at pp. 8-9.

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p. 17. Appellants reference Complaint ¶ 79, but that paragraph does not allege noncontiguity; instead it only criticizes the width of the Twelfth District in some places. J.S. App. at 43a. Similarly, appellants' only other allegation concerning contiguity simply asserts that the First District includes an unpopulated area "to purport to make the district contiguous." Complaint ¶ 82, J.S. App. at 44a.[7]

6. In support of their compactness argument in this Court, the appellants recite a litany of materials they contend they were prepared to offer as evidence in support of their theory. J.S. at pp. 21-22.[8] In addition, in a detailed footnote, appellants set forth the contents of a memorandum from the Director of Legislative Drafting for the North Carolina General Assembly to the Department of Justice regarding criticisms of the first congressional redistricting plan passed by the General Assembly. J.S. at p. 22 n. 21. This memorandum, however, was not before the district court on the motion to dismiss and its inclusion in appellants' Jurisdictional Statement is improper.

ARGUMENT

The case presents no substantial question not previously decided by this court. For the reasons stated below the court

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[7] Appellants attempted to make this same argument about noncontiguity to the district court. However, they were closely examined by the court concerning the absence of such allegations in the complaint. App. at 14a-15a.

[8] The court's rejection of evidence beyond the allegations of the complaint in considering the motion to dismiss was reconfirmed when appellants attempted to offer evidence after the court issued its ruling dismissing the case. App. at 17a-21a.

properly dismissed the complaint in this cause and its decision should be summarily affirmed.

I. APPELLANTS FAILED TO STATE A CLAIM THAT NORTH CAROLINA'S CONGRESSIONAL REDISTRICTING PLAN VIOLATES THE EQUAL PROTECTION CLAUSE ON THE GROUNDS OF IRRATIONALITY.

Appellants ask this Court to note probable jurisdiction of their appeal on the representation that the complaint adequately states an equal protection claim asserting the invalidity of the North Carolina Congressional Redistricting Plan on the grounds of its irrationality. Contrary to appellants' claims, when the complaint is analyzed under established equal protection principles, it is clear that the decision of the three-judge court below should be summarily affirmed.

A. The Rational-Basis Test.

Appellants have essentially abandoned any reliance on this Court's decision in *Davis v. Bandemer*. Instead they describe the "appropriate standard to measure North Carolina's congressional redistricting" as "a rationality test." J.S. at p. 15. Under the well-established principles of equal protection rational-basis scrutiny, the appellants' own allegations demonstrate the validity of the state's redistricting plan.[9]

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[9] Perplexingly, what appellants now depict as their principal claim -- that the plan is unconstitutional because it fails the rationality test and subsidiary tests of compactness and contiguity -- is not immediately evident from a reading of the complaint. Those allegations which touch upon the concepts of rationality, (continued...)

The basic principles of rational-basis analysis have often been stated by this Court. "The general rule is that legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest." *City of Cleburne, Texas v. Cleburne Living Center*, 473 U.S. 432, 440 (1985). Classifications reviewed under a rational-basis test need not be made with perfection and are not invalid merely because they result in some inequality. *Dandridge v. Williams*, 397 U.S. 471, 485 (1970). This "is the most relaxed and tolerant form of judicial scrutiny under the Equal Protection Clause." *City of Dallas v. Stanglin*, 490 U.S. 19, 26 (1989). "[C]ourts are quite reluctant to overturn governmental action on the ground that it denies equal protection of the laws" under the rational-basis test. *Gregory v. Ashcroft*, ___ U.S. ___, ___, 111 S. Ct. 2395, 2406 (1991), quoting from *Vance v. Bradley*, 440 U.S. 93, 97 (1979).

B. The Rational Basis For North Carolina's Plan.

Appellants assert that the complaint alleges that the redistricting plan under review was enacted for an illegitimate purpose. In fact, in their complaint, appellants themselves attributed two perfectly legitimate state goals to the North

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[9](...continued)
compactness and contiguity appear to be supportive of claims of political gerrymandering and unconstitutional fracturing of communities of interest rather than vice-versa. *See generally* Complaint ¶¶ 73-94, J.S. App. at 41a-47a. However, assuming *arguendo* that the complaint in fact includes a rationality claim, that claim must still be reviewed in light of the specific allegations contained within the complaint.

Carolina legislature as the primary purposes underlying the Congressional Redistricting Plan. "The General Assembly's purpose in enacting Chapter 7 was to create two districts in which black voters could elect two candidates of their choice without risking the reelection chances of white incumbent Democratic Congressmen." Complaint ¶ 76, J.S. App. at 42a.

It cannot be gainsaid that the state's purpose of enacting two minority districts was legitimate under the Equal Protection Clause. The United States Department of Justice objected under § 5 of the Voting Rights Act to the state's initial plan because it contained only one minority district. *See* Complaint ¶ 67, J.S. App. at 40a; *see also* J.S. App. at 59a-60a. The state reasonably chose to adopt a plan with two minority districts rather than undertake the difficult and time-consuming process of bringing suit in the United States District Court for the District of Columbia. The creation of minority districts to comply with § 5 objections has been upheld by this Court as a legitimate justification for the drawing of districts challenged under the Equal Protection Clause. *United Jewish Organizations v. Carey*, 430 U.S. 144 (1977).

The alleged state goal of preserving districts for incumbents is equally legitimate, notwithstanding appellants' efforts to paint it as improper.[10] The Court has recognized as legitimate a state's efforts "to promote 'constituency-representative relations,' a policy frankly aimed at maintaining existing relationships between incumbent congressmen and their

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[10] Although not explicit in the complaint, it is a matter of public record that the plan in fact places all incumbents, Republicans as well as Democrats, in separate districts.

constituents and preserving the seniority the members of the State's delegation have achieved in the United States House of Representatives." *White v. Weiser*, 412 U.S. 783, 791 (1973). Indeed, the Court has suggested that a legislative policy of "avoiding contests between incumbent Representatives" might justify deviations from the ideal population of congressional districts. *Karcher v. Daggett*, 462 U.S. 725, 740 (1983). A policy of sufficient legitimacy to justify some deviation from the strict population equality mandated by article I, section 2 of the Constitution is certainly a legitimate policy for the North Carolina General Assembly to consider in adopting its equipopulous plan.

Appellants thus have alleged that the North Carolina Congressional Redistricting Plan was enacted for legitimate purposes. Taking appellants' arguments at face value, they have pled themselves out of court. They do not even intimate that the adopted plan is inconsistent with the goals they attribute to the legislature. Nor is it significant that the same goals allegedly could have been accomplished with a different plan that would be more palatable to appellants.[11] Under a rational-basis test, legislation need not be drawn precisely to accomplish the goals which it is apparently designed to achieve. Only if the legislature could not even conceivably have thought this plan would accomplish the legitimate purposes attributed to

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[11] North Carolina in fact vigorously disputed the contention that it was possible to create a plan which would contain two minority districts and which would be composed of districts drawn with the nicety urged by appellants. However, since the allegations of the complaint are accepted as true for the purposes of a motion to dismiss, appellees treat them as true for purposes of this argument.

it would the plan be invalid under such a test. *Cf. Gregory v. Ashcroft*, ___ U.S. at ___, 111 S. Ct. at 2406-07. Appellants have never even hinted that the North Carolina Congressional Redistricting Plan fails to further any goals which the state could conceivably have sought to achieve through the plan.[12] Instead, the thrust of their entire complaint is that, to their chagrin, the plan succeeds.

C. Allegations of Partisan Motivation.

Appellants also allege that the North Carolina legislature had "[a] secondary purpose . . . to further dilute the influence of Republican voters state-wide by packing them into" two districts and gerrymandering them from another district, all of which are currently represented by Republican Congressmen. Complaint ¶ 76, J.S. App. at 42a. Although they now abandon their *Bandemer* claim, appellants argue that the plan is unconstitutional because what they describe as "overriding considerations of partisan affiliation and incumbency protection are not the sort of legitimate state policy" encompassed within a rational-basis analysis. J.S. at p. 15. Having abandoned their

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[12] It is exactly such a failure to further the purported goals presented by states as grounds for deviating from meaningful standards of equal population which underlies two comments seized upon by appellants as apparent justification for their position. In Justice Clark's view, the Tennessee plan considered in *Baker v. Carr* was "a crazy quilt without rational basis" because it bore no relation to any rational policy and did not further the goals of the policy offered as justification. *See* 369 U.S. 186, 254-58 (1962) (Clark, J., concurring). Similarly, *Reynolds v. Sims* described Alabama's legislative plan as "crazy quilts, completely lacking in rationality," which "could be found invalid on that basis alone" because the plan was illogical even under the state's theory of county representation. *See* 377 U.S. 533, 568 & n. 45 (1964).

failed *Bandemer* claim, appellants should not be allowed to "sneak in the back door." Their suggestion that partisan gerrymandering somehow invalidates an otherwise constitutional plan is merely a disingenuous attempt to evade the rigorous standards established in *Bandemer* for evaluating partisan gerrymandering claims.[13] In fact, as this Court has often acknowledged, "[p]olitics and political considerations are inseparable from districting and apportionment." *Gaffney v. Cummings*, 412 U.S. 735, 753 (1973); *accord*, *Bandemer*, 478 U.S. at 128. "[A]pportionment is a political process. . . ." *Karcher v. Daggett*, 462 U.S. at 739. In an inherently political process, partisan considerations should be recognized as legitimate unless they violate the strict standards governing partisan gerrymandering and vote dilution set out in *Bandemer*. Regardless, a secondary partisan motive in an inherently political process cannot somehow strip the North Carolina Congressional Redistricting Plan of its rational basis in view of the undeniably legitimate primary motives furthered by the plan according to appellants' own allegations.

D. Notions of Compactness and Contiguity.

Straining the allegations of their complaint and principles of constitutional law to the limits, appellants invite this Court to note probable jurisdiction because of their contentions of the arguable noncontiguity and relative noncompactness of North Carolina's congressional districts.

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[13] Appellants were unable to meet the *Bandemer* standards and in effect pled themselves out of court by alleging the substantial state-wide success of Republican candidates in North Carolina since the 1970's. Complaint ¶¶ 55-56, J.S. App. at 37a-38a.

The Court should reject their implicit invitation to promulgate standards of contiguity and compactness as freestanding constitutional criteria which can invalidate an otherwise rational plan.

1. Contiguity.

Whatever constitutional restraints may exist on noncontiguous districts, appellants have appealed from the dismissal of a complaint which does not allege that North Carolina's congressional districts are noncontiguous. Instead, the complaint alleges that the Twelfth District is contiguous in one place "only because it runs along a railroad right-of-way" and is no wider in places than the Interstate 85 "corridor." Complaint ¶ 79, J.S. App. at 43a. The complaint also alleges that the First District is contiguous in one place only by inclusion of uninhabited parts of two precincts. Complaint ¶ 82, J.S. App. at 44a. Having failed to allege noncontiguity, appellants are in no position to urge the Court to review this case as one raising a specter of congressional districts constructed from "10, 50 or even 100 noncontiguous pieces of geography." J.S. at p. 18.

Contiguity *per se* has never been identified as a constitutional requirement. Indeed, two "experts" cited by appellants for their comments on the importance of contiguity and compactness, J.S. at pp. 18-19 n. 17, candidly acknowledge that their theory is not supported by current law and that the Court "has never said that a district must be composed of contiguous areas." Daniel D. Polsby & Robert D. Popper, *The Third Criterion: Compactness as a Procedural Safeguard Against Partisan Gerrymandering*, 9 Yale L. & Pol. Rev. 301,

330 (1991). Nor, of course, has this Court required that contiguity be established at some particular level. In fact, the Court has upheld a decision in which a highway bridge was deemed sufficient to establish contiguity. *Wells v. Rockefeller*, 311 F. Supp. 48 (S.D.N.Y.)(three-judge court), *aff'd*, 398 U.S. 901 (1970).[14] There is thus no inherent unconstitutionality in a plan which includes districts made contiguous at points through the use of uninhabited areas or a railroad right-of-way. Nor does the use of such areas to achieve contiguity detract from the demonstrated rationality of the plan, as established in the allegations of the complaint. If it was error for a district court choosing among three plans to select one on the basis that it was "significantly more compact and contiguous" than another plan, which more closely followed legislative policy choices, it cannot be unconstitutional for a state to choose a "less contiguous" plan which more closely achieves its goals over unidentified, and perhaps nonexistent, alternative plans which might be "more contiguous". *See White v. Weiser*, 412 U.S. at 796-97. The Court should reject appellants' plea for establishment of a constitutional test based on degrees of contiguity.

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[14] Similarly, appellants cite a case in which a court-drawn plan contained a district, one part of which was connected to another only by a highway. *Arizonans for Fair Representation v. Symington*, No. CIV-92-256-PHX-SMM, slip. op. at 12 n. 4 (D. Ariz. May 5, 1992)(three-judge court). Another case relied on by appellants followed a contiguity standard simply forbidding one part of a district from being *completely* separated from another. *Carstens v. Lamm*, 543 F. Supp. 68, 88 (D. Colo. 1982) (three-judge court).

2. Compactness.

Appellants also suggest that the Court should declare a constitutional principle which would require courts to place redistricting plans under some sort of constitutional microscope solely because of alleged noncompactness. Here, too, appellants' argument does not rest on relevant authority. *Connor v. Finch*, 431 U.S. 407 (1977), which appellants cite, is inapposite: the decision concerned the standards for court-drawn plans and did not elevate relative compactness into a freestanding constitutional limitation on an otherwise valid congressional redistricting plan.

Appellants' reliance on lower-court cases considering compactness as well as contiguity in designing or selecting court-ordered plans is misplaced. For example, *Carstens v. Lamm* described compactness and contiguity as the *least* significant of the "non-constitutional" criteria it considered in selecting a congressional plan for Colorado. 543 F. Supp. at 82, 87. *DeGrandy v. Wetherell* recognized that compactness is not simply a matter of the size and shape of a district, as appellants would have it. Instead, compactness in minority districts is more a function of the size and relative concentration of the minority population. No. TCA 92-40015-WS, Slip op. at 17-18 (N.D. Fla. May 29, 1992) (three-judge court). The *DeGrandy* court consequently approved the placement of minorities living in separate "enclaves" in a single district if they share a community of interests. *Id.* at 18. *See also Hastert v. State Board of Elections*, 777 F. Supp. 634, 64[illegible] (N.D. Ill. 1991) (three-judge court).

Appellants' complaints about the noncompactness and irregular shapes of North Carolina's congressional districts ignore the foundation on which the plan was built -- the creation of two minority districts.[15] Such districts are often irregularly-shaped even when drawn or adopted by courts. Thus, a minority district in the court plan adopted in *DeGrandy v. Wetherell* was described by a critic as "grotesquely" shaped, slip op. at 30, and by one of the panel members as having the "appearance of something lifted from a Rorschach test" and "wander[ing], web-like, from south of Orlando throughout northeast Florida." Slip op., Vinson, J., concurring, at 1. In *Hastert*, the court distinguished the kind of "uncouthness" in district shapes which ordinarily signals that something else is amiss from "uncouthness" resulting from the location of minority populations; in such instances, the "uncouthness" reflects the satisfaction of constitutional and statutory goals, not their violation. 777 F. Supp. at 650.

This Court has never held that states must create compact and attractively-shaped districts. *See Gaffney v.*

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[15] Appellants' concept of compactness, which they link to their criticism of the splitting of political subdivisions and geographic communities of interest, overlooks the fact that districts may be bound together by other kinds of geographic, economic and social interests. The problem with appellants' narrow view is that communities of interest as such have never been accorded constitutional stature, as is evident from the Court's treatment of Hasidic Jews' objection to the splitting of their community in the drawing of minority districts. *United Jewish Organizations v. Carey*, 430 U.S. 144 (1977) (also dismissed on a Rule 12(b)(6) motion). North Carolina's Congressional Redistricting Plan, by creating one minority district in the rural eastern portion of the state and one urban "I-85" district along the historically recognized Piedmont Crescent, reflects adherence to social, economic, political and geographic ties comprising their own communities of interest.

Cummings, 412 U.S. at 752 n. 18. Even the district court findings in *Bandemer* of "unusual" and "often contorted" district shapes which "do not adhere to any remote definition of compactness," 603 F. Supp. 1479, 1487-88 (S.D. Ind. 1984), did not require consideration of the district shapes in assessing the sufficiency of the plaintiffs' political gerrymandering claim. 478 U.S. at 142 & n. 20. Similarly, allegations of "bizarre ar irregular shapes" did not permit plaintiffs to survive a motion to dismiss under Rule 12(b)(6) in *Badham v. March Fong Eu*, 694 F. Supp. 664, 671 (N.D. Cal. 1988)(three-judge court), *aff'd mem.*, 488 U.S. 1024 (1989). Noncompact and irregularly-shaped districts have never been held constitutionally invalid in and of themselves. There is even less reason to hold such districts constitutionally invalid when they stem from an effort to comply with constitutional and statutory obligations of fairness to racial minorities in districting. The Court should decline to note probable jurisdiction on the basis of appellants' theory of a constitutional mandate for compact and regularly-shaped districts.

E. Fair and Effective Representation.

Appellants rely heavily on this Court's statement that "the achieving of fair and effective representation for all citizens is concededly the basic aim of legislative apportionment. . . ." *Reynolds v. Sims*, 377 U.S. at 565-66; *see* J.S. at pp. i, 14, 16, 17. But the "fair and effective representation" of which *Reynolds* spoke was tied to the notion of "substantial equality of populations among districts." *Gaffney v. Cummings*, 412 U.S. at 748; *accord*, *Board of Estimate of City of New York v. Morris*, 489 U.S. 688, 694 (1989). The Court has never suggested that "fair and effective representation" can be

considered in a vacuum. Instead, the Court has insisted on "judicially discoverable and manageable standards" in order to remove challenges to redistricting plans from the nonjusticiable political question arena. *Baker v. Carr*, 369 U.S. at 217; *accord*, *Bandemer*, 478 U.S. at 122-23. Appellants no longer seek to have their complaint measured against *Bandemer's* standards for political gerrymandering claims, and their own allegations contradict any assertion that the plan "reflects no policy, but simply arbitrary and capricious action." *Baker v. Carr*, 369 U.S. at 226; *accord*, *Bandemer*, 478 U.S. at 122.

F. Conclusion.

Since appellants have apparently chosen to base their appeal on the notion that congressional districting plans must be rational in relationship to legitimate state purposes, the success of their claim for this Court's attention must rise or fall on the extent to which they have presented the Court with a complaint which adequately poses this issue. Their claim fails because appellants themselves demonstrated in their complaint a rational basis and legitimate state purposes to support the state's Congressional Redistricting Plan. If, in the alternative, appellants mean to argue for an amorphous principle of abstract rationality, including freestanding constitutional requirements for contiguity and compactness, their theory is at most only marginally reflected in their complaint. Furthermore, it is a theory which would "mak[e] the standards of reapportionment so difficult to satisfy that the reapportionment task [would be] recurringly removed from legislative hands and performed by federal courts . . . ." *Gaffney v. Cummings*, 412 U.S. at 749. Such an approach "virtually guarantees that a federal court, in a sort of judicial receivership, will ultimately conduct

redistricting -- a process the . . . Court has consistently recognized as political." *Anne Arundel County v. State Administrative Board of Election Laws*, 781 F. Supp. 394, 399 (D. Md. 1991) (three-judge court), *aff'd mem.*, ___ U.S. ___, 112 S. Ct. 2269 (1992). The Court should neither ignore appellants' own recognition of the rational underpinnings of the North Carolina Congressional Redistricting Plan nor accept their implicit plea for the Court to bog itself down in a "vast, intractable apportionment slough" of abstract notions of rationality, compactness and contiguity. *See Gaffney v. Cummings*, 412 U.S. at 749-50. Consequently, appellants have raised no sustantial question in their rationality argument, and the Court should summarily affirm the judgment below.

II. ARTICLE I, SECTION 2 ONLY PROSCRIBES DISTRICTS OF UNEQUAL POPULATION.

The appellants ask this Court to note probable jurisdiction of the question: "[d]id the district court err in holding that article I, section 2 can only be the basis of a claim of unequal population among congressional districts." J.S. at pp. i, 24. The district court followed long-established precedents in dismissing appellants' article I, section 2 claim, which relies on a theory of irrationality rather than unequal population.

Article I, section 2 of the Constitution provides that "[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States." Under prior decisions of this Court, this provision has been construed solely as an equal population requirement. *Mahan v. Howell*, 410 U.S. 315, 322 (1973). In *Badham v. March Fong*

Eu, the three-judge district court dismissed the plaintiffs' article I, section 2 claim, premised on a political inequality theory not unlike appellants' claim, on the grounds that this "Court has made it clear that Article I, Section 2 only proscribes districts of unequal population." 694 F. Supp. at 674. This Court recently reconfirmed the limited scope of article I, section 2 by its summary affirmance in *Anne Arundel County v. State Administrative Board of Election Laws*, which rejected a claim that political considerations in the congressional redistricting process are constitutionally proscribed by article I, section 2. 781 F. Supp. at 397-98.

Appellants advance no reasons why this Court should expand the scope of article I, section 2's equal population requirement. In light of the recent memorandum affirmances by this Court of the *Badham* and *Anne Arundel County* decisions, no legitimate reasons exist for revisiting this issue. Appellants do not challenge the population equality of North Carolina's Congressional Redistricting Plan in this action, and the district court properly held that appellants failed to state a cause of action under article I, section 2 of the Constitution.

III. THE DISTRICT COURT PROPERLY DISMISSED APPELLANTS' CLAIMS BASED ON THE FIRST AMENDMENT RIGHTS OF POLITICAL ASSOCIATION AND PETITION.

Appellants maintain that the district court erred by dismissing their case without allowing them to demonstrate that "bizarre district configurations have such a chilling effect on voters' rights as to 'inhibit participation in the political process.'" J.S. at p. 25. The district court correctly concluded

that appellants' complaint failed to state a cause of action under the First Amendment.

This Court recently has affirmed two decisions squarely rejecting similar arguments. In *Badham v. March Fong Eu*, a political gerrymandering case charging "uncouth, irregular and bizarre configurations" of congressional districts, 694 F. Supp. at 670, the court rejected a first amendment claim almost identical to that made by appellants in the present action.

> Plaintiffs here are not prevented from fielding candidates or from voting for the candidate of their choice. The First Amendment guarantees the right to participate in the political process; it does not guarantee political success.

Id. at 675. In *Anne Arundel County v. State Administrative Board of Election Laws*, 781 F. Supp. at 401, the court also rejected an almost identical first amendment claim because, despite the fact that the county had been split into four separate congressional districts allegedly for political reasons, the plaintiffs remained "free to join pre-existing political committees, form new ones, or use whatever means are at their disposal to influence the opinions of their congressional representatives." The court below properly rejected appellants' "chilling effect" argument, applying the reasoning of the *Badham* court which described an identical argument as "wholly without merit." 694 F. Supp. at 675; J.S. App. at 12a-13a.

Appellants also contest the district court's dismissal of their claim under the Petition Clause of the First Amendment, asserting that the "right of petition is not subsumed by the rest

of the First Amendment." J.S. at p. 25. However, appellants' right to petition argument was properly dismissed by the district court because it is merely a restatement of appellants' freedom of association argument and does not allege that the redistricting plan burdens the right of petition differently from its effect on other first amendment rights. J.S. at pp. 13a-14a. This Court has previously observed in a petition clause case that where a plaintiff "does not argue that [the challenged law] burdened each right differently, we view these clauses as essentially the same." *Wayte v. United States*, 470 U.S. 598, 610 n. 1 (1985).

Appellants' first amendment contentions present this Court with no basis for noting probable jurisdiction in this case.

IV. THE DISTRICT COURT PROPERLY DISMISSED APPELLANTS' CLAIM BASED ON THE FOURTEENTH AMENDMENT'S PRIVILEGES AND IMMUNITIES CLAUSE.

Appellants assert that their complaint states a cause of action under the Privileges and Immunities Clause of the Fourteenth Amendment, stating that the North Carolina redistricting plan "places plaintiffs at an electoral disadvantage not suffered by voters in other states with more rational districts." J.S. at p. 28. This argument fundamentally misreads the first section of the Fourteenth Amendment. Unlike the Privileges and Immunities Clause of Article IV, section 1 of the Fourteenth Amendment does not address differences between states. The Privileges and Immunities Clause, like the rest of section 1, prohibits certain state actions regardless of what other states may do. Even if true, appellants' claim that voters in other states enjoy a "better" scheme of congressional districting

would be entirely irrelevant.[16]

CONCLUSION

Wherefore, appellees respectfully submit that the questions upon which this case depends are so unsubstantial as not to need further argument. Appellees therefore respectfully move the Court to affirm summarily the judgment entered in the cause by the three-judge United States District Court for the Western District of North Carolina.

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[16] Confronted with a similar claim that an equal protection claim can be stated by noting discrepancies among different states' legal classifications, this Court termed the argument "patently frivolous." *Gurley v. Rhoden*, 421 U.S. 200, 212 (1975).

Respectfully submitted,

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July 22, 1992

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APPENDIX

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PORTIONS OF TRANSCRIPT OF HEARING ON APPELLEES' MOTION TO DISMISS BEFORE THE HONORABLE W. EARL BRITT, THE HONORABLE SAM J. ERVIN III, AND THE HONORABLE ROBERT D. POTTER MARCH 9, 1992

[CAPTION OMITTED]

[2] JUDGE ERVIN: For the benefit of counsel, the Court has decided that we will proceed in this fashion. We will first deal with the Motion to Dismiss which we will treat as a strict 12(b)(6) motion which of course means we will not examine or get into any documentation or any supporting papers. We will simply consider the question of whether in considering the complaint as a complaint whether it under Rule 12(b)(6) states a claim upon which relief should be granted or not. After hearing that portion of the argument, we will recess and confer and depending upon our decision we will then advise counsel as to the procedure that we will follow thereafter.

* * *

[32] JUDGE ERVIN: Mr. Farr, we'll be glad to hear from you, sir.

MR. FARR: Your Honor, may I put one of these maps up on the tripod?

JUDGE ERVIN: Yes, sir. I have not seen the original complaint and the copy that I got did not have any attachments to it. Although I assume there was a map attached to the complaint. I wanted to be sure we were staying within our 12(b)(6) bounds.

JUDGE ERVIN: Was a map not necessarily this map, but a map comparable to this attached to the complaint?

JUDGE POTTER: There were xerox copies, weren't

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there, Mr. Farr?

MR. FARR: Yes, Your Honor. Your Honor, I have to confess there are so many things that have been filed I'm confused as to what was attached to what. But I believe the map was attached to the complaint.

JUDGE ERVIN: The reason I'm raising this question is because a copy of the complaint that I got which admittedly came by FAX doesn't have anything attached to it. Unless Judge Britt has one here. That's fine, there's one here.

JUDGE POTTER: Just wanted to be sure it was in the complaint.

* * *

MR. FARR: **[34]** We brought this suit, Your Honors, because we believe--we almost feel like that I can sit down right now and just point to that map and say that we've stated a claim under some constitutional theory and that's why this suit was brought, Your Honors. Our firm took this on on a pro bono basis. We've not been paid one dime by anybody so far for the work we've done. We don't want any medals for it. We think it's our public duty to bring cases like this in front of the Court. There were lots of folks all over the state who are questioning the constitutionality or the wisdom of this plan. Nobody else looked like they were going to challenge it and we got into it. Three weeks ago, Your Honor, I was getting done trying a case that I'd worked about a week and a half being involved in. I had no prior involvement in any of the debate that went on with redistricting. Nobody in our firm had any prior involvement in any debate that went on with redistricting. What we've learned about this case is what we've learned within the last two to three weeks. And, Your Honors, the one thing that concerns me a great deal is that we do not have the

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advantage of knowing the Record the way the state's attorneys do. And I'm concerned, Your Honors, about not being able to argue the facts at this point in time. We would be prepared to argue the facts if we're going to get thrown out of Court and ask **[35]** that our complaint would be amended to include the facts that we've discovered in the last week. We've had one week's worth of discovery. Some of the things that we know now are different than what we knew one week ago. In that regard, Your Honors, I would like permission to submit a few more things at this point in time into the Record if that would be permissible.

JUDGE ERVIN: I don't see any point in doing that at this particular point until we finish with the 12(b)(6) motion and then, of course, we'll be receptive to anything anybody wants to offer us.

MR. FARR: Your Honors, I guess as a point of clarification will we be permitted to offer this material before the Court rules on the 12(b)(6) motion?

JUDGE ERVIN: What relevance could it have to a 12(b)(6) motion?

MR. FARR: Your Honor, I believe under the federal rules if I'm not mistaken that a plaintiff has a right to amend its pleadings as a matter of right before a responsive pleading is filed. And as I said, Your Honor, we knew absolutely nothing and that's not an overstatement about any of this until two and a half weeks ago. And I think we've discovered some things . . .

JUDGE ERVIN: . . . I misunderstood what you were saying. Are you saying that you would like to offer to the **[36]** Court amendments to the complaint? I thought you said you wanted to offer additional materials or evidence.

MR. FARR: Your Honors, we would like to offer the additional materials because we believe that the materials

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would support amendments to the complaint if we'd missed something.

JUDGE BRITT: Procedurally, how can we consider that unless you have made a motion to amend the complaint and it would be relevant to the motion to amend, Mr. Farr?

MR. FARR: If we get to that point, Your Honors, then we'd like to have permission to submit those materials and move that our complaint be amended before the Court rules on the 12(b)(6) motion.

JUDGE BRITT: Where is your amendment?

MR. FARR: We make it today, Your Honor, in open Court.

JUDGE ERVIN: What would you like to amend it to say?

MR. FARR: Your Honors, we would like for the Court to have a full factual background, as full as this thing has been developed, Your Honors. Because let me say this--

JUDGE ERVIN: It seems to me we're going back and forth between two different animals. If you're asking for permission to amend your complaint, then I would suggest you tender to the Court what proposed amendment you would like to make. We'll show it to your adversaries and see if they have **[37]** any response to it. That's one thing and that would be appropriate I think at the 12(b)(6) stage. On the other hand documentation, other evidence, when we are only looking at the face of the complaint it seems to me at this point is not appropriate. If you want to hand up a proposed amendment, we'll certainly be glad to consider it and we'll consider it before we pass upon the 12(b)(6) motion.

MR. FARR: Just as a point of clarification, Your Honor, this hearing was originally set to be heard on the plaintiffs' motion for a preliminary injunction and the

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plaintiffs consented to having the 12(b)(6) motion consolidated with that motion based upon the thought that we would have an opportunity to argue our preliminary injunction motion. And, Your Honors, the facts of this case are so important because I think--we will admit that we are in uncharted waters here to a certain extent.

JUDGE ERVIN: If the facts are alleged in your present complaint, then we accept those facts as being true. If they're not in your present complaint, then they are not appropriate it seems to me on a 12(b)(6) motion.

JUDGE BRITT: We might add that the reason we decided to hear the 12(b)(6) motion first before hearing the preliminary injunction motion is that obviously if we were to be inclined to grant the 12(b)(6) motion, there would be absolutely no sense in hearing a motion for injunctive relief **[38]** regardless of which order we might have heard them.

MR. FARR: I understand the Court's position, Your Honors, and I would just ask that at some point in time that we be given the opportunity to submit this additional information so it's in the Record. And I believe the Record is clear that we the plaintiffs at least think that given the history of this case and the amount of time that we've had to figure out what's going on that this additional information would be relevant to a 12(b)(6) motion. I understand the Court's position.

JUDGE ERVIN: The Davis case which seems to me like too many of those things we on the appellate level do has a little something in it for everybody. What is as you vision it, what is the minimum that you have to allege in order to allege what to use a term out of the case invidious political gerrymandering to exist?

MR. FARR: Your Honor, I'll try to respond to that as best I can. I think as I understand this case, Your Honor,

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I think we've got two separate theories. I think things can be broken into two different categories. I think that we have the Bandemer theory. And under that theory, I believe we have to allege that there's been partisan intent. That there's been some effect and that there's been an exclusion from the process. I think that there's no question that the complaint has alleged partisan intent. That there's been a **[39]** dilutive effect and, Your Honors, the exclusion from the process prong I think is something that's different. This is a new feature of this case we will admit that. Republicans have been able to elect people in state-wide elections. There's no question about that. However, Your Honors, what we have alleged is that Republicans as a group have been excluded from the redistricting process. And that's where we think we come into Bandemer, Your Honors. In the Badham case, for example, I believe that's dealing with the state of California where I believe the governor has the veto. In this situation, Your Honors, no matter how many times a Republican governor is elected in the state of North Carolina, he does not have the veto.

JUDGE BRITT: Has any Democratic governor ever had veto power?

MR. FARR: No, Your Honor, that's true. But we have alleged that the reason why the Democratic majority in the General Assembly has consistently refused to even let the people of this state vote on whether the governor should have a veto is in order to keep control of redistricting.

JUDGE BRITT: Let me see if I understand you correctly. It's your contention that you meet the exclusion from the process prong by showing exclusion from the process of creating the districts?

MR. FARR: Yes, Your Honor.

[40] JUDGE BRITT: And not in the participation in

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the political process as a group after the districts have been created.

MR. FARR: Your Honor, I think as the Republican party, yes. I think exclusion from the political process, Your Honors, I think you can say that individuals, individual Republicans who are represented in this case--and we're representing different groups of people, Your Honors. We've got Republican individuals. We've got the Republican party. We've got Democrats. I think they're all entitled to assert whatever claims they may have. If we could go into the facts, Your Honors, I think that we could show you that the state in a previous submission to the Justice Department defending the original plan that was enacted agreed that there was a significant state interest in having compact districts and avoiding the split precincts. And we believe that people who are living in split precincts who've had those precincts split we believe for illegitimate motives that they are being excluded from the political process. And there's a submission from the state, Your Honor, they argued these very points. It will make organizing more difficult at the precinct level. It's going to cause confusion at the precinct level. It's going to make voter registration more difficult at the precinct level. So as to those individuals, we believe they are being excluded from **[41]** the political process because these lines have been drawn strictly to protect incumbent candidates, primarily Democratic incumbent candidates and for partisan and political reasons. That's our argument on Bandemer, Your Honors.

JUDGE POTTER: Mr. Farr, you allege. Let's go down to your complaint in paragraph 77. "The plan adopted by the General Assembly ignores the directive of the United States Department of Justice to create a minority district in

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the southeastern portion of North Carolina since any such district would jeopardize the reelection of the Honorable Charles Rose, a Democratic incumbent for the Seventh Congressional District." You consider that as being an intentional discrimination against the Republican Party? Is that right?

MR. FARR: Your Honor, that's just part of it. Yes, I would agree that it is. You know there's some clarification that I could give you about that if the Court is interested because it's some of the things we've learned since we began discovery in this case. But, yes, I would agree that that's an allegation of intentional discrimination against the Republican Party.

JUDGE POTTER: Then you go on in the next paragraph and talk about the grossly contorted districts of the proposed Twelfth District saying that "one of the two [42] districts in which the General Assembly intended that black voters would be able to elect a candidate of their choice since blacks comprise 56% of the population in the Twelfth District." Then you go on and point out "the Twelfth District is approximately 160 miles long and winds through Alamance, Davidson, Durham, Forsyth, Gaston, Guilford, Iredell, Mecklenburg, Orange and Rowan Counties. It snakes along the interstate and at some points is no wider than the interstate itself and that portions of five counties in the Twelfth Congressional District, Forsyth, Guilford, Iredell, Mecklenburg, and Rowan have been split into three separate Congressional Districts. Similarly, the town of Davidson and the city of Charlotte have been split into three separate Congressional Districts." That's your allegation for what purpose? To show that there was intentional--

MR. FARR: Your Honor, we believe that those lines were drawn the way they were--first of all, Your Honor, we

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believe that there's blame to go around on all sides in this case. But for the plaintiffs, the Democrats had control of the General Assembly and we believe that those lines were drawn specifically to enhance the electoral opportunities of Democratic incumbent Congressmen.

JUDGE ERVIN: What case can you cite me that says that's unconstitutional motive?

MR. FARR: Your Honor, under the Bandemer theory **[43]** which we're discussing at this point in time I can't under Bandemer--I believe that this is a new factual situation that's distinguishable from other cases that have been addressed by the Supreme Court. And again I go back to the point that no matter how many times Republicans elect a governor, they are never going--and have never had any impact on the redistricting of the General Assembly which draws the Congressional districts and of course they've had no impact on the Congressional district.

* * *

[46] JUDGE POTTER: Mr. Farr, your complaint--does it allege these things. Does it allege that, first of all, the Republican Party is a salient class, politically salient class. Does it allege that?

MR. FARR: Yes, Your Honor.

JUDGE POTTER: Does it allege that the relevant district or districts in the state as a whole their proportion of voting influence has been adversely affected by the challenged scheme?

MR. FARR: Yes, Your Honor.

JUDGE POTTER: Does it allege that it raises a rebuttable presumption of discrimination?

MR. FARR: Yes, Your Honor.

JUDGE POTTER: We're not here to discuss the veto of the governor. We're here to discuss whether or not your

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complaint alleges sufficient--makes sufficient allegations for us to go forward any further than the Motion to Dismiss.

MR. FARR: We've alleged the thing about the veto, Your Honor, in the complaint.

JUDGE BRITT: You say you rely on the Bandemer case, I assume you're talking about Davis v. Bandemer.

[47] MR. FARR: No, Your Honor. We're relying on Bandemer. What we're saying is that the Badham case we believe is distinguishable.

JUDGE BRITT: You're relying on which case?

MR. FARR: The Davis v. Bandemer.

JUDGE BRITT: Yes.

MR. FARR: Yes, Your Honor.

JUDGE BRITT: You are relying on that?

MR. FARR: Yes, Your Honor.

JUDGE BRITT: All right. To me, it seems like the real thing that we've got a problem with in your pleadings if anything is exclusion from the process. Counsel for plaintiff has candidly admitted that you've alleged intent. There's no question about that. Now you have in response to my question a moment ago said that exclusion from the process as you envision is in the creation of the districts. Now how does that jive with what the majority opinion of Justice White says that "unconstitutional discrimination occurred only when the electoral system is arranged in a manner that will consistently degrade a voter's or group of voters influence in the political process as a whole"? Do you think that squares with and supports the contention that--alleging that exclusion from the process in creating the districts in the General Assembly states a cause of action?

MR. FARR: Your Honor, I believe the Republicans who **[48]** live in the Chambersburg Precinct who have had their precincts split into three Congressional districts for

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purposes of furthering the chances of reelection for incumbent Democratic Congressmen have been degraded.

JUDGE ERVIN: Don't these cases focus on the rights of voters and not on the rights of people running for office or political parties or anybody else?

MR. FARR: I think they should focus on the rights of voters, Your Honor. I think that there should be some focus on candidates. But I think the concern with the voters, that should be the primary concern. In responding to Judge Britt, again I think it's self evident that if you're a Republican in the Chambersburg Precinct and the long arm of the state stretches down and slices your county into about this one-block wide Congressional district to protect Democratic incumbent Congressmen, I think you have been degraded. I think that person might as well not even vote for the next eight years.

JUDGE ERVIN: What concerns me in trying to think through this and frankly I was in Court in Baltimore all last week and have not had a chance to go into this in depth in which I'd like to, but everybody who lives in a district who is in a minority is disadvantaged in that sense, isn't he or she?

MR. FARR: Your Honor, we've alleged illegitimate **[49]** motives for creating that district. Partisan gerrymandering motives for creating that district.

JUDGE BRITT: I want you to point to me if you can, Mr. Farr, any place in the complaint that there is an allegation that the devised system has or will or has consistently had an adverse impact on the class that you represent which I take it is the Republican class.

MR. FARR: Your Honor, I believe as to the Republican--as to the one theory, the Republican party theory, Republicans as a group; I think we've alleged that

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Republicans have been consistently excluded from the redistricting process and to that extent I'm agreeing with you, Your Honor, that that is--we're trying to push the envelope of the case law and I think that this case is distinguishable from the other--the Bandemer cases because of the lack of the veto of the governor. And, Your Honor, I think it's very clear that that's what's happened. The Democratic Party has got a stranglehold on redistricting, they want to keep it that way. We've alleged that. We've alleged that Republicans have not had a chance to elect members to Congress in proportion to their voting powers in the state and I think it's alleged in the complaint. And as to the Republicans . . .

JUDGE BRITT: . . . Point that out to me, that allegation. The allegation that the Republicans have been [50] unable to elect Congressmen in relation to their voting strength.

JUDGE POTTER: Paragraph 86 he says "dilutes their ability to achieve effective representation, participation in or the promotion of legislative objectives in their behalf." Is that what you're talking about, Mr. Farr? Paragraph 86?

MR. FARR: I hope I was, Your Honor. Your Honor, I think if you look at paragraphs 57 and 58 we've alleged those facts in those paragraphs.

JUDGE POTTER: 57?

MR. FARR: Yes, Your Honors.

JUDGE BRITT: You've alleged there that the dilution against Blacks and you've also alleged in the last sentence of paragraph 58 "despite their state-wide success, the Republicans have never achieved a majority in either state house and have also been underrepresented in the number of Republicans elected to Congress." The last phrase of the last sentence I guess is what you're saying.

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MR. FARR: Your Honor, it's the best I could think of at that point in time.

JUDGE ERVIN: Did I understand you, Mr. Farr, to say you thought that Davis v. Bandemer was distinguishable?

MR. FARR: Your Honor, only in the ways that I've already articulated and that I believe--Your Honor, I believe Republicans have no more opportunity to influence **[51]** redistricting than African Americans or Black people had an opportunity to have their vote counted in the 1960's. And I agree we're trying to take that analysis to the next level I would think and I think North Carolina is unique because of the reasons I've outlined, the lack of the veto which we have alleged has been kept from the Republican governor in order to allow the majority party to keep its stranglehold on the redistricting process. Your Honor, I think if you have no other questions about Davis v. Bandemer, I'd like to go on to the other legal theory we have.

JUDGE ERVIN: At some point, it would be helpful to me if you'd talk a little bit about the Badham case which seems to me to have some factual similarity to this one. And frankly, there's not many cases that help me very much one way or the other. There are a lot of cases with a lot of loose language. There's a lot of cases with a lot of very broad florid statements in general, but the cases that really focus on what this case is about seem to me to be very few and far between.

MR. FARR: Your Honor, I'd like to perhaps allow Mr. Hess an opportunity to talk about that, but the only thing I can tell you right now is that the difference between California and North Carolina is that the governor here does not have a veto. And we've alleged that the reason why it's been kept away from the governor is for the reasons we've **[52]** stated. And at this point in time . . .

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JUDGE ERVIN: . . . It would be helpful if somebody could explain to me how one party has an advantage over the other when one doesn't have a veto and it's conceded that neither has the veto. I can understand how two parties if one has some means that it can and will employ against the other which the other lacks, then I can understand that disparity. But when neither party has a particular capacity or power such as the case here I gather with the veto, I have trouble understanding how it fits into this scheme.

MR. FARR: Because, Your Honor, every redistricting scheme that's every been passed for both the General Assembly and for the Congress has been passed by the Democratic majority in the General Assembly and we allege that they drafted those plans in order to unfairly enhance and dilute and cause the underrepresentation of Republicans in both the legislature and in the Congress and I think if we got into the facts . . .

JUDGE ERVIN: . . . Does what little case law there is suggest that the purpose or motive of one party to disadvantage another is not only not invidious discrimination but is part of the political process?

MR. FARR: Your Honor, as I said, I think saying that the Democrats like to do things to get the Republicans or vice versa is like saying a cat likes catnip and I agree with **[53]** that. However, the Bandemer case says that if you exclude an identifiable group from the political process for partisan reasons and it has an effect, then you've stated a justiciable claim. And I think that if we got into the facts that we've alleged that the Republicans have been excluded from the process historically, if we get into the facts of this case, Your Honor; I think there is absolutely no question that Republicans were completely excluded from the process that

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resulted in enactment of this statute.

* * *

MR. HESS: **[68]** The plaintiffs have alleged and maintained that two very identifiable and manageable standards are contiguity or the lack thereof and **[69]** compactness. The plaintiffs have alleged and the state has not denied that this plan is not contiguous and the plaintiffs believe that the lack of contiguity or contiguity in Congressional districts or any districting for that matter is a fundamental basis for redistricting. If this Court were to hold that contiguity is not a requirement of Congressional redistricting, I think that the next step for the North Carolina General Assembly or any state legislature for that matter instead of connecting pockets of population by highways is just to avoid the highway connectors all together. Have islands of population around the state, fifty, a hundred, five hundred pieces of geography. If there's no contiguity requirement in the Constitution, then I think the single member representative structure of the House of Representatives is in considerable jeopardy.

JUDGE BRITT: Are you contending that there's an allegation of complete lack of contiguity in any district in this plan?

MR. HESS: Yes, Your Honor, we are.

JUDGE BRITT: What difference?

MR. HESS: Your Honor, we are alleging that District Twelve is not contiguous.

JUDGE BRITT: It's connected by a highway all the way, isn't it?

MR. HESS: We would argue that that does not meet any **[70]** accepted definition of contiguity. And if Your Honor--if I may refer to a map here of Iredell County representing the Sixth, the Twelfth--

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JUDGE BRITT: Contiguousness means that one part touches another, doesn't it?

MR. HESS: Your Honor, the only part that touches here is at one point in space. It's in effect a crossover contiguity. We maintain that that sort of contiguity if allowed to be permitted is completely irrational. If that is permitted, then districts that don't touch at all would be permitted. And I think the political science community would agree with that definition of contiguity, Your Honor.

JUDGE ERVIN: You've got a much stronger argument that this isn't compact.

* * *

MR. HESS: [72] Finally, the state suggests that in terms of Bandemer v.--Davis v. Bandemer that Republican electoral successes would preclude relief either under Bandemer or the Badham case, Badham v. Eu. The plaintiffs would maintain that that is the appropriate interpretation of Bandemer. That if electoral success of any kind whether it's to Congress, the governor, the state legislature, if that is the standard of review, then Bandemer is a dead letter. I don't believe the Supreme Court of the United States engages in idle speculation. The plaintiffs in Bandemer were Democrats. The defendants were Republicans. And clearly the Court found that as between those two political parties and both political parties could score electoral successes in the state of Indiana, the Court found that as between those two parties there was a justiciable issue. The state argues that [73] the plaintiffs' argument will make hash out of the Supreme Court's decision in Bandemer. We believe that if the state's argument or interpretation of Bandemer is allowed to stand, it in fact renders Bandemer a nullity. I would be happy to answer any questions.

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[77] (12:15 P.M., Court reconvened)

JUDGE BRITT: Anything further from the movants before the Court announces its decision?

MR. POWELL: No, Your Honor.

JUDGE BRITT: Anything from the plaintiffs?

MR. ELLIS: Your Honor please, we realize that the panel has had a novel problem to be faced with and whether compactness and contiguity mean anything is sooner or later going to have to be decided by the Courts and we feel that this certainly is a case that is ripe for that determination and we would like for it to go on. Thank you.

JUDGE BRITT: On the Defendant's Motion to Dismiss under Rule 12(b)(6) on the ground that the complaint does not state a claim upon which relief can be granted, the Motion to Dismiss is granted. The case is dismissed.

MR. FARR: Your Honor, can we address the Court?

JUDGE BRITT: Yes, sir.

MR. FARR: First of all, Your Honor, the plaintiffs would make a motion under Rule 62 with the Court to stay any judgement or orders resulting from the Court's ruling and a motion, Your Honor, to continue the temporary restraining order continuing the filing period until such time as an emergency application for an emergency injunction will be filed with the Supreme Court tomorrow until that motion can be disposed of. We make that motion pursuant to Rule 62.

[78] MR. SPEAS: Your Honor, we would strenuously oppose this. If this injunction is continued beyond today, the primaries cannot be held as scheduled and can impose irreparable harm throughout the state of North Carolina and we strenuously would oppose that.

JUDGE BRITT: Those motions and each of them are

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denied.

MR. FARR: One other thing, Your Honor. We mentioned that there was some additional exhibits that we would like to put into the Record and I believe the Court said you would have no objection to us doing that. I don't think the state would object to us submitting these exhibits. I don't know if the Court needs to be in session for us to do that, but we would like an opportunity to do that and have them marked for the Court's records.

MR. SPEAS: Your Honor, we don't see a reason.

JUDGE BRITT: It seems to me that the decision of the panel will stand or fall on whether the complaint states a claim under Rule 12(b)(6) so I see no purpose to be served by putting in additional documentation.

MR. FARR: Your Honor, we would respectfully disagree and would like to submit those exhibits just for purposes of protecting the Record if we feel we need to do so.

JUDGE BRITT: Well, we'll deny your motion but let you put into the Record whatever documentation you wish to [79] do. But my understanding is on the basis of our ruling that it would not be considered for any purpose hereafter. So what purpose we have in doing it, I'm not quite sure.

MR. FARR: Your Honor, as you'll recall we stated that we thought given the short time frame that we had to investigate this case that we thought this evidence should have been marked and presented to the Court in opposition to the Motion to Dismiss. And again we understand the Court's ruling and are simply wishing to protect our right to argue--make that argument with the Supreme Court.

JUDGE ERVIN: Well, you can certainly give it to the reporter and I'll ask the reporter to mark showing that

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they were offered after the Motion to Dismiss was granted and that they were not before the Court nor was any other evidence of documentation before the Court when the Court made its ruling.

MR. FARR: Your Honor, I would just have the Record reflect that the plaintiffs sought to offer these exhibits before the motion was granted. And, Your Honors, if this can be done with the Court reporter and with defense counsel present we see no need to have the Court present to do that but we'll be happy to have you stay if you'd like to do that.

JUDGE BRITT: The only thing I have trouble with when we came back out we asked both sides if they had anything further and both sides said no. And now it seems to me to be **[80]** an unusual procedure to follow what you're suggesting. All I want to do is let you identify for the Record what those documents are, but the Record will not reflect that they were offered at any time until after the Motion to Dismiss the case under Rule 12(b)(6) was granted.

MR. FARR: Your Honor, again I believe the Record will reflect that we sought to offer them before the motion was granted and we respect the Court's ruling on that.

JUDGE BRITT: We were talking I thought, Mr. Farr, about amendments to the complaint. Can't you give them to the reporter and let her mark them at this time and keep them separate. I don't see any reason in doing it here in open Court.

MR. FARR: Your Honor, one thing I would like to do in open Court is there was a correction to page 40 of the Gerry F. Cohen deposition that the state has been made aware of and we make sure that's been read into the Record. On page 40 of that deposition, line 9 . . .

JUDGE ERVIN: . . . Mr. Farr, I have trouble with this whole procedure because under 12(b)(6) the only thing

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we can consider is the complaint and not other evidence which was available or already submitted or might have been submitted thereafter.

MR. FARR: Your Honor, again I understood that the Court said that we would have a chance to present this after **[81]** the Court's ruling. We asked to present it before the Court's ruling. We believe under the circumstances of this case, this evidence should have been considered in connection with the 12(b)(6) motion because it goes to showing with more particularity the irregularities associated with these Congressional districts and also, Your Honor, the process that was followed that resulted in the adoption of the districts. And given the fact that this process, I believe the Record will show that this act was precleared in February. Our firm became involved in this case three weeks ago and we believe this should be made a part of the Record and under these circumstances, Your Honor, we think it should have been considered on the 12(b)(6) motion. I would also point out to Your Honor the plaintiffs' motion for a preliminary injunction was filed and set for hearing in this case before a Motion to Dismiss was filed and we consented to that to the consolidation of the Motion to Dismiss based upon the assumption that we would be able to present this evidence before the Court. I don't believe the Court has seen all of the facts that relate to the plaintiffs' claims and the plaintiff could not put these facts into the complaint because we had not discovered them at the time the complaint was filed. So, Your Honor, I understand your ruling--

JUDGE ERVIN: If you could just designate what each one of the documents that you want to tender at this time is **[82]** by--if it's a deposition of John Jones identified as the deposition of John Jones, deposition of whoever else

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and just--

MR. FARR: That's what I'd like to do, Your Honor.

JUDGE ERVIN: I don't see any purpose in reading.

MR. FARR: The reason why I was going to read this one question and I'm not going to read anything else but the question was typed up incorrectly by the court reporter and I want to make sure that the Record reflects that whatever copies of this deposition . . .

JUDGE ERVIN: . . . Suppose you confer with Mr. Speas afterwards and make any changes in that document that you wish to make in it. It would be fine.

MR. FARR: All right. And, Your Honor, you're saying that with the cooperation of counsel for the defendants have these marked with the court reporter and they will be considered a part of the Record?

JUDGE ERVIN: All I'm saying is I will let you mark them at this time so that they may be identified for future purposes.

MR. FARR: We'd like to file them with the Court.

JUDGE ERVIN: I can't imagine that anybody will look at them hereafter, but you certainly may mark them and identify them.

MR. FARR: May they be filed with the Court, Your **[83]** Honor?

JUDGE ERVIN: They may be given to the clerk with the Record showing that you offered them after the Motion for Dismissal under 12(b)(6) was allowed.

MR. FARR: And again, Your Honor, we asked to offer them before the motion was ruled upon and I think the Record will reflect that.

JUDGE ERVIN: Whatever the Record reflects whatever it does.

MR. FARR: Thank you.